

**THE STATE
AND
NATION**

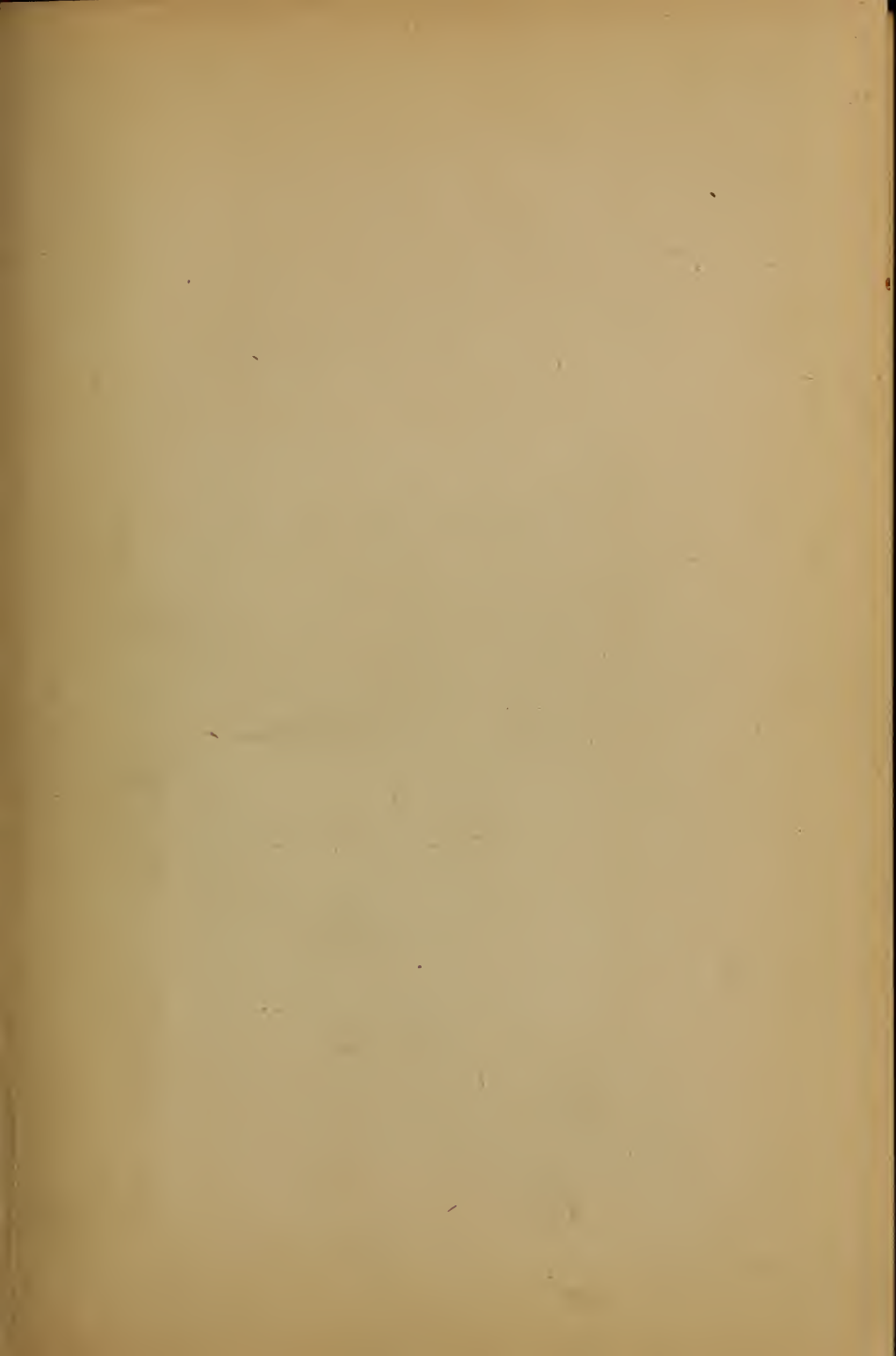
**BY
WILLIS E. JOHNSON**

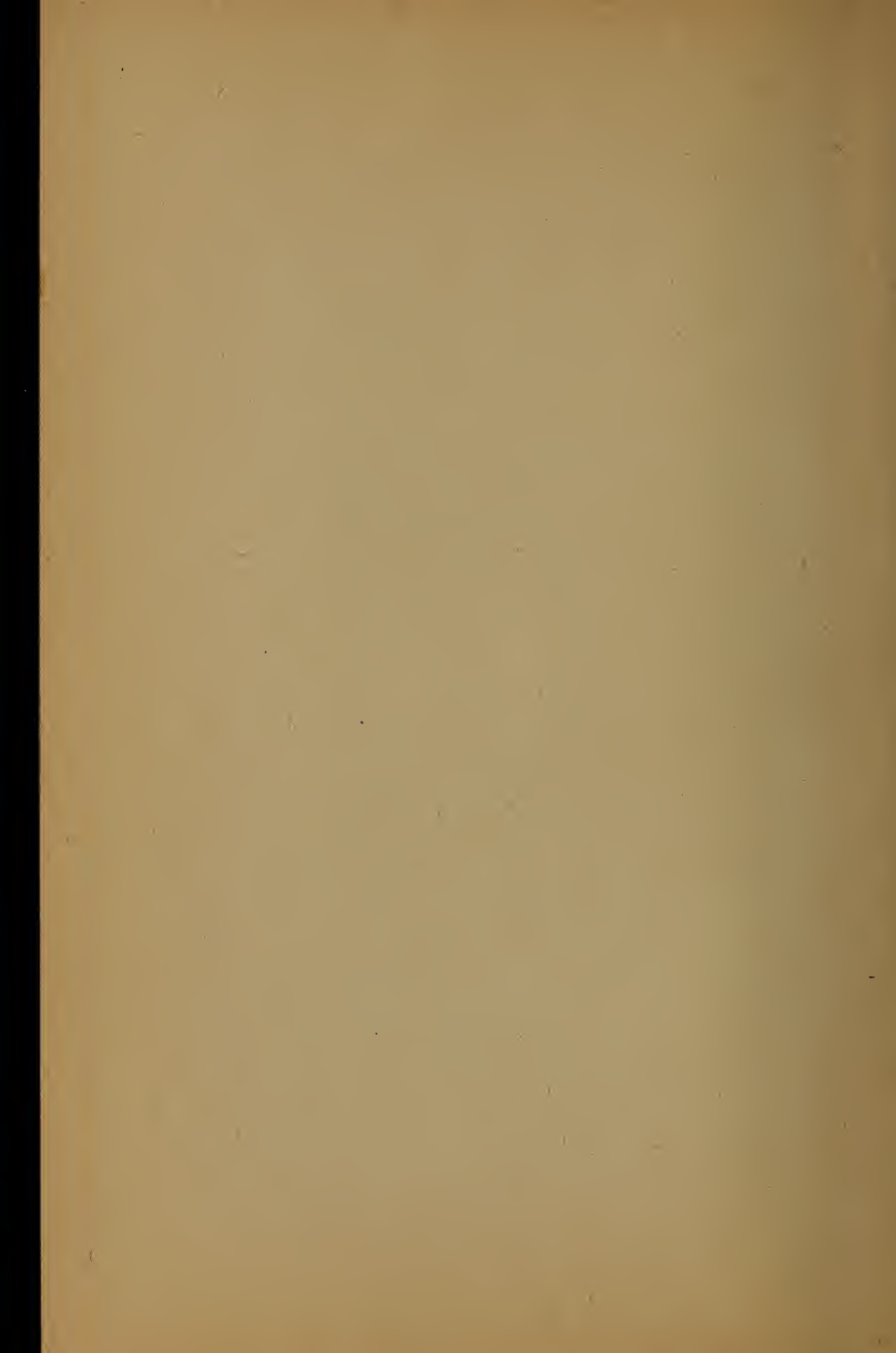


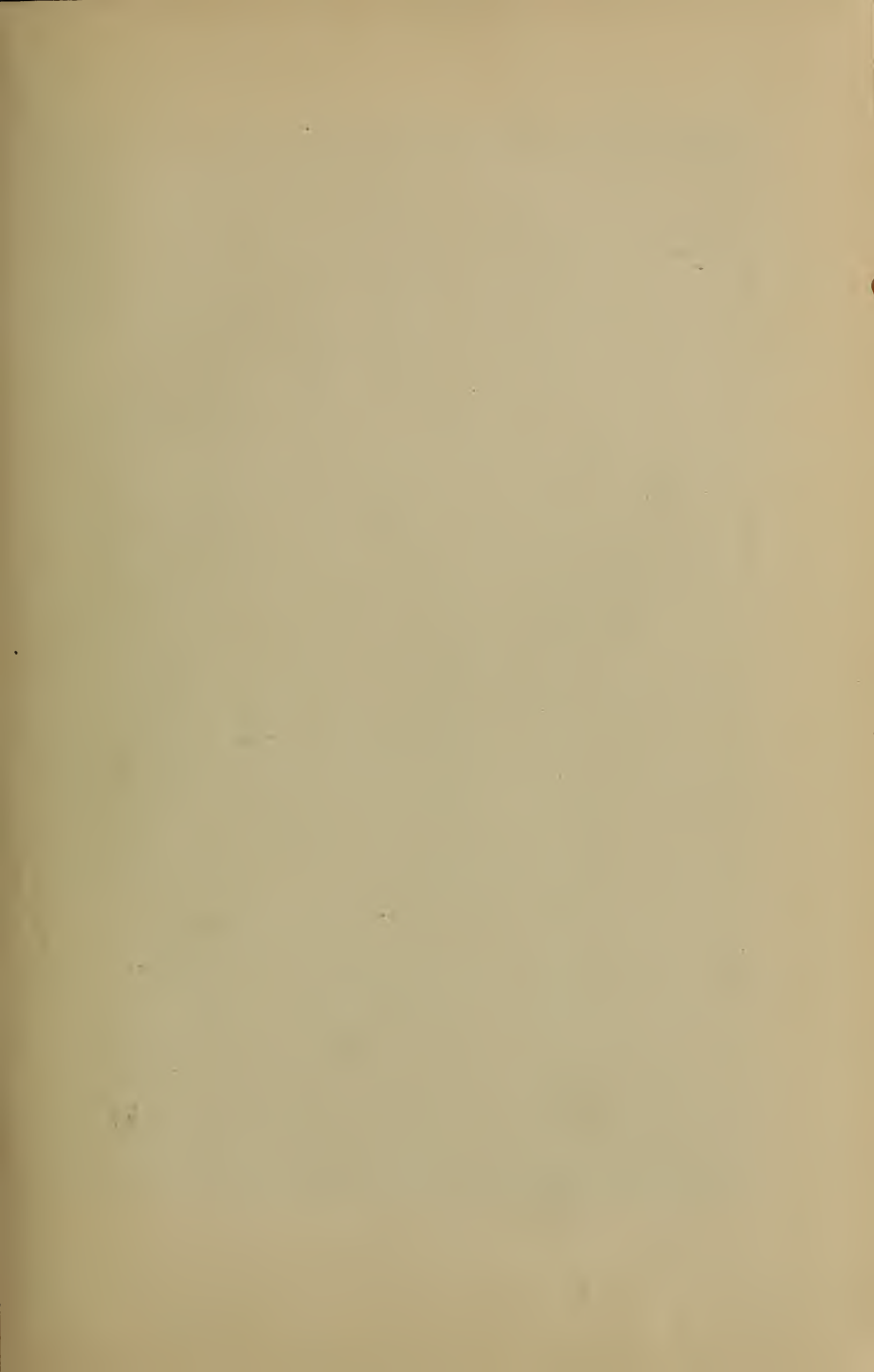
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STATE CAPITOL, PIERRE

THE STATE AND NATION

BY

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"SOUTH DAKOTA, A REPUBLIC OF FRIENDS," "A MATHEMATICAL GEOGRAPHY,"

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In proportion as the structure of government gives force to public opinion, it is essential that public opinion should be enlightened.

—WASHINGTON, Farewell Address.

PREFACE

This book is written for the boys and girls of South Dakota. It is the burning desire of the author to quicken their interest in the commonwealth and to stimulate a healthy and intelligent patriotism. Training in the three R's is imperative, since they are the keys to all learning and culture, but it should be remembered they as readily unlock all doors of vice. Training for industrious, co-operative and intelligent citizenship is the true purpose of education, for the school exists as an instrument of society to preserve its ideals and processes by transmitting them to succeeding generations. To be sure, these are taught in the home, the business world, the church and the government, but the school is created by society for this special purpose; it is society's supreme effort to preserve its own life.

The school must give that preparation for the activities of civilized life which the child would not readily acquire in the school of life itself. In haphazard contact with community and civic life the child will learn many valuable lessons in patriotism and in domestic, economic, religious and civic duty. But if we expect that these incidental, and often accidental lessons will constitute sufficient training for the child so that in maturity he may play a man's part in a world of men, we are doomed to disappointment. Society looks to the school to give

definite training for citizenship. The school must instill ideals of civic righteousness and cultivate habits of social service, for these alone insure the perpetuity and progress of an enlightened democracy.

Social life in this generation is rapidly passing into a stage where the community restraints of the face-to-face group are much less powerful than formerly because of the fact that people no longer live their whole lives in the same community. One has but to notice his own tendency to carelessness when away from home and among strangers to appreciate the omnipresent force of community restraint. Modern freedom, intelligence, prosperity and easy means of transportation have broken up the fixed social relations which characterized past civilizations. With the rapid weakening of the restraining influences of the permanent community life, there must be a corresponding strengthening of character or there will be a moral decadence. As the group control lessens, the moral fibre of the individual must strengthen. The modern social life requires a finer sort of patriotism and character, for many a man's rectitude of life is due as much to the public opinion of his group as to his own self-control. The soldier on the field of battle is very brave, but the one who is true and faithful in the midst of temptation when the eye of the public is not upon him is vastly braver. A higher type of citizenship must be developed if the higher form of civilization is to be preserved. The loftiness of the ideals of modern life and the complex and changing character of the activities and culture of our day and age, place newer and greater responsibilities upon the school.

Any society stamps its character upon its schools. Society creates the school in its own image. As the schools of ancient Sparta were the barracks, and those of

Rome were the forum, so the American public school is a miniature democracy, putting into practice the principles of industry, virtue, justice, equality and fraternity. The thoughtful teacher has abundant opportunity in the administration of the democracy of school life to instill lasting lessons in citizenship. The child who has learned to restrain his caprice for the good of the group and cheerfully conform to law has learned the first lesson in true patriotism. In opening or general exercises, in assigning committed productions, readings, essays and language lessons, and in other ways, there are countless opportunities to cultivate an interest in public affairs.

Every subject in the course of study and every activity of the school room and playground may lend direct assistance in training for intelligent and helpful participation in social life. But just as physiology and hygiene are the best public school studies by which individual health is conserved, so civics is the study which is most valuable for the conservation of civic and social health. The author keenly realizes that civics should be more than a study of governmental processes, just as citizenship should be more than simply intelligent conformity to law. But while we have the democracy of industry, of domestic, educational, fraternal and religious life, democracy in government is the supreme manifestation of civic life. This book, therefore, is concerned mainly with the study of the governmental institutions and activities of South Dakota and of the nation. Whatever may be its defects and limitations, the animating purpose of the author is that it may be of some value in raising the boys and girls of this commonwealth to a higher plane of citizenship.

Much of the material in this book appeared in the early editions of "South Dakota, a Republic of Friends." A

change in the state course of study in 1917 made it necessary to separate the book into two volumes. The history of South Dakota appears under the original title and the civil government of the state and nation is given in this volume. The entire subject has been rearranged to adapt it to the new course of study.

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A PLAN FOR STUDY

A South Dakota Scrap Book

It is suggested that every pupil studying this book make a scrap book on South Dakota, its geography, civics and history. A loose-leaf note book answers the purpose splendidly. If one cannot be purchased it can be made by the pupil very easily from any good-sized old book. A few pages should be cut out here and there to make room for the articles and pictures pasted in. A very good paste may be made by wetting a little flour in cold water, then letting it boil until it thickens. When cold, stir in a few drops of formaldehyde and the paste will not get mouldy. A few drops of essence of peppermint will give it an agreeable odor.

Watch the newspapers and magazines for articles about South Dakota, or some portion of it. Clip these out and neatly paste them in the scrap-book. Put in pictures of state and county officers, courthouses, the capitol building, public school buildings, the buildings at the state university and colleges and normal schools of the state, prominent educators and others who are engaged in notable or public work in the state. A few scenes representing different portions of the state, occupations and industries may be added. There should be included some of the maps, charts and diagrams made by the pupils. When finished, an index should be carefully made. If the scrap-book is presented at the time of the county eighth grade examination, it will undoubtedly receive some consideration, and the best ones may be sent to the state fair.

Essays

One essay each month should be written on some topic of interest on government or community life. In no case should the essay be written until the pupil has made some observations or done some reading on the subject *and has something to say*. A few topics are here suggested.

Visits. A visit: to a courthouse, to a postoffice, to a park, to a county fair, to a football game, to a college or normal school, to a farmers' institute, to a teachers' institute, to a picnic, to a newspaper office, to a telegraph office, to a hospital.

How Some Things Are Done. How men vote. How mail is sent. How roads are repaired. How taxes are collected. How a deed is written and recorded. How contracts are made. How candidates are nominated. How a silo is made. How disease is spread.

Needs. The need: for good roads, for rural telephones, for groves, for a public hall, for literary societies, for good health, for skating ponds, for taxation, for a beautiful schoolroom, for ventilation in school, church and home.

Other Topics. Our debt to the pioneer. Prevention of accidents. First aid to the injured. The care of the teeth. Home life in the city compared with home life in the country. Country sports and city sports. When grandma was a girl. When grandpa was a boy. A talk with the oldest settler. Some good habits and some bad ones. Cheerfulness. What I want to be when a man. The games I like to play.

A Flag Salute

The flag salute, which is used in most schools of this country, is given as follows: At a signal from the teacher

every pupil stands erect and faces the flag, which is usually draped on the wall back of the teacher's desk. At another signal, generally made by raising the hand, the military salute is given by the pupils. This is made by lifting the right hand, palm downward, the forefinger touching the forehead above the eye. Standing thus, all repeat together slowly:

"We give our heads and our hearts to God and our country; one country, one language, one flag."

At the words, "our hearts," the right hand is placed over the heart, then placed at the side. At the words, "one flag," the right hand is extended gracefully, palm upward, toward the flag, all eyes being directed toward it.

Another flag salute is given as follows: * "I pledge allegiance to my flag and the Republic for which it stands; one nation, indivisible, with liberty and justice for all." At the words, "to my flag," the hand is extended toward the flag and remains in this position until the end.

A pleasing variation is made sometimes by giving the "silent salute." The pupils form in a line, or in two lines, facing each other. The flag is then carried in front of the line, or between the lines, and the hands remain at salute until the flag has been placed in its position, when, at a signal from the teacher, every hand is dropped.

THE ARMY HAND SALUTE. "The hand salute is as follows: Raise the right hand smartly until the tip of the forefinger touches the lower part of the forehead above the right eye, thumb and fingers extended and joined palm to left, forearm inclined to about forty-five degrees, hand and wrist straight; at the same time look toward the person or flag saluted; drop the arm smartly to the side."

* This pledge is recommended by the American Flag Day Association.



CHAPTER I

INTRODUCTION

Before We Begin. A very methodical man made a list of the things he kept in his trunk. He began it this way: "1. This list." The first thing in the list was the list itself. Before we begin the study of our government, let us answer this question, "Why do we have government?" We have asked ourselves a very hard question, but an important one.

Need for Government. The word government comes from the Latin word *gubernator*, which means "one who guides a ship." The word, therefore, means guidance. There are many things which guide human conduct. In answer to the old riddle, "Why does the miller wear a white hat?" instead of saying, "to keep his head warm" we might say, "it is the custom." Why do we have three meals per day instead of two or five, as some people have; shake hands; dress in certain fashions; have marriage ceremonies; turn to the right when we meet, and do a thousand other things the way we do them? The answer is the same, "it is the custom." If we count all the things we do from morning until night, we will find custom guides and controls most of our acts.

Nearly always the conduct of affairs in the home is controlled by the customs of the home itself. This is also true of the church, the school, and of business activities. What are the forces which regulate custom? Chief among them are *self-control* and *public opinion*. These are powerful forces which compel one to "behave."

Some customs or "social habits" are so necessary to our safety and happiness that they have hardened into law. When automobiles meet, each turns to the right (in England, to the left). This is according to custom, but the custom is so important that laws have been passed to compel its enforcement. Self-control and public opinion cannot always be relied upon to adjust all matters. Law is the public force which must be applied when the forces of custom do not seem to be strong enough to be relied upon.

There are two reasons why we must have government and law: (1) because some people are dishonest, untruthful and evil; and (2) because people make mistakes and misunderstand each other, and sometimes the rights of one person overlap the rights of another. Even if all people were good, we should still need government. It is an accepted rule even of the better world, that "order is heaven's first law." There are other reasons for government, one of the important ones being that it is needed to carry on many activities connected with the mail service, money, roads, bridges, education, public health, etc.

The United States. We are about to take up a study of the government under which we live. We might, perhaps, have said governments, as public affairs are regulated by several different sets of laws and of officers. You have considerable knowledge of our national government, as in your history you learned many facts about the nation. Three of these we will very briefly notice now.

1. **Separate Colonies.** This country was first settled along the Atlantic coast: Jamestown, 1607; Massachusetts (at Plymouth), 1620, and so on. Thirteen English colonies were developed along the Atlantic seaboard, many having claims to land lying to the west.

2. **Independence.** Why do we celebrate the Fourth of July? Because, on July 4, 1776, representatives from these colonies signed the Declaration of Independence, setting forth the wrongs of the mother country and saying, "*We are, and of right ought to be, free and independent states.*" Then followed the Revolutionary War, and after an heroic struggle, we became a free and independent nation—the United States of America.

3. **Government Established.** When the thirteen colonies became independent they were no longer colonies, but were states, each with its own laws and its own governor and other officers. A national government was established. A constitution* for the nation was adopted in 1789. This provided for a congress to make laws for the nation, a President and other officers to enforce the laws, and courts to interpret the laws and decide in case of their violation.

A Two-fold Government. We thus had and still have a dual or two-fold government: (1) a national or federal government with the President at the head. In the main, it has to do with such matters as affect the nation as a whole, such as war and peace, mail service, coinage of money, etc. The nation is supreme. It has what are called sovereign powers. (2) The state government with the governor at the head. For convenience in carrying on our state and local government, the state is divided into counties and the counties are usually divided into townships. A portion of a township or county may be organized into a town or city. For the management of our public schools we have school districts. In the main, the state laws regulate the affairs in the county, township, town or city and school district.

* This took the place of the Articles of Confederation adopted during the war.

Order of Study. We shall take up the study of our government in exactly the opposite order in which these "governments" have been named. Beginning with the school district, the government nearest at hand, we shall study each one carefully, ending with the study of the nation. This is the order of the state course of study for civics, which is divided into eight parts or "months." An outline of the official course of study follows each chapter. In the Appendix will be found considerable valuable information.

PART ONE—THE STATE

CHAPTER II*

THE PUBLIC SCHOOL SYSTEM

The Township

The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools, wherein tuition shall be without charge, and equally open to all, and to adopt all suitable means to secure to the people the advantages and opportunities of education.—Art. VIII, Constitution of South Dakota.

Education in a Republic. In kingdoms a prince is educated with great care because some day he may become king and will then have many responsibilities. In a republic like ours, where enlightened public opinion rules, in a certain sense all of the boys and girls are princes and princesses who are certain some day to be the rulers of the greatest country on earth. It is supremely important, then, that they be educated and trained for their duties and responsibilities. The ballot is powerful, but intelligent public sentiment is far more powerful, because votes can only express public convictions. It is important, then, that all young people be educated even though many of them never vote or hold office.

Public Education. Education is a public necessity, for all children have need of training for citizenship. It is

* This chapter comprises civics material for the first month of the state course of study, chapter III, for the second month, etc.

right, then, that the public should compel parents to educate their children and should provide schools at public expense.

"No appropriation of lands, money, or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state."—Art. VIII, Constitution of South Dakota.

School Corporations. For the purpose of maintaining public schools the people of the state are organized into school districts. Like the county, township, town and city, a school district is a corporation, and as such it may sue or be sued, make contracts, own property, and manage its affairs through its officers. Some school districts are still governed by special charters granted by the territorial legislature before 1889. These may reorganize and be governed by the general laws of the state.

Kinds of Districts. We have a great variety of school districts in this state, some districts comprising the people of a small area supporting only one school and some comprising the people of several townships supporting many schools. They are all governed by the same general laws and have boards with the same powers, the principal differences among them being the area and number of schools maintained in each. Provision is made for dividing the districts that are considered too large or consolidating them if that is desired. Experience seems to indicate decided advantages where the district is made larger rather than smaller. To distinguish these from the "independent" districts provided for towns and cities, we may call them common school districts. It should be borne in mind, however, that independent districts provide "common school" education and common school

districts are in most particulars as "independent" as those in cities and towns.

Common School Districts. As a general rule a common school district comprises the same area as a civil township. The school board consists of a chairman, elected in 1907, and every three years thereafter; a clerk, elected in 1908, and every three years thereafter; and a treasurer, elected in 1909, and every three years thereafter. The election occurs on the third Tuesday of June, beginning at 2:00 o'clock p. m., closing in two hours in districts having but one school and in four hours in districts having more than one school. At 3:00 o'clock the voters assemble and may decide when schools shall be in session, how much money shall be raised by taxation, provide for repairs to school buildings, the removal of them, the erection of new ones, etc. Special school meetings may be called by a petition of five voters.

The school board carries out the decisions of school meetings and makes all provisions not agreed upon then. It provides transportation for children when necessary, employs teachers, plants trees and shrubs on the school grounds, and in general has charge of the property and affairs of the district. The board holds regular meetings on the second Tuesday in July and the last Tuesday in November and March. Special meetings may be held at any time.

The duties of the members of the board are expressed in their titles. The *chairman* presides at meetings of the board and school meetings, and signs warrants for the payment of money. The *clerk* keeps record of the transactions of the board and of school meetings, draws warrants on the treasurer for the payment of money, posts election notices, takes a census of the children of school age (over six and under twenty-one) in the district and sends reports of the census and other matters concerning the school district to the county superintendent. He reports the tax levy to the county auditor. The *treasurer* cares for the money of the school district. School district taxes are paid to the county treasurer

and he sends the money thus collected to the school district treasurer. Tuitions paid by pupils who do not live in the district are paid to the district treasurer. Vacancies on the board are filled by appointments made by the county superintendent until the next election.

TOWNSHIP HIGH SCHOOL. Provision is made for the organization of township districts for the purpose of maintaining a high school. Several townships may unite for this purpose. The other school districts in the township or townships continue to manage their common schools as before.

Independent Districts. Most cities and towns of the state are organized as independent districts, though in some cases they are simply a part of a common school district as just described. The independent school district usually has the same boundaries as the city or town, though it may include outside territory. The pupil should think of the people of a city or town as organized for educational purposes, as a school corporation, with officers and property; and the same people as organized for governmental purposes as a civic corporation, with officers and property. Each corporation is entirely separate from the other—indeed, a member of the city council cannot be a member of the school board.

HOW ORGANIZED. Any city or town having a population of one hundred or more within a radius of one mile from the center, whether incorporated or not, may organize an independent district. A majority of the voters petition the county superintendent and he provides for the necessary elections to decide the matter and to elect officers. (See also consolidated district.)

Board of Education. The board having charge of the property and affairs of an independent district is called the board of education and consists of five members, each elected from any portion of the district for two years. (In cities under commission each is elected for five years, one each year, at the regular municipal election.) School elections are held on the third Tuesday in June, except in cities under commission, the polls being open from 8:00 a. m. until 5:00 p. m. A clerk is

appointed by the board and the people elect a treasurer for three years, neither being a member of the board. The duties and powers of the board are very much like those of the school boards of common schools, having somewhat greater power in taxation and issuance of bonds, building schoolhouses, and providing for a high school.

Some additional powers and duties are given boards of education in cities of the first and second classes.

Consolidated District. The legislature of 1917 made definite provision for the uniting of several school districts into a consolidated district. While such a district is classified as an independent district, having all powers, privileges, and duties as such, it will be well to treat it separately.

Twenty-five per cent of the electors in each district must petition the county superintendent for the formation of a consolidated district on a plan approved by the superintendent of public instruction. An election is held in each district. If three-fifths or more of the voters in each district are favorable the new consolidated district is formed. The officers are the same as in any other independent district.

ADVANTAGES OF CONSOLIDATION. There are many advantages in consolidation under most circumstances. Only a few can be discussed here and *many of these are certainly debatable*. In some cases the expense is reduced, as the increase in the number of pupils does not require a corresponding increase in the number of teachers. Usually the total expense is not decreased, however, as the school equipment, length of school year, and other educational advantages, are likely to be made the same as in towns and cities. In a consolidated school several teachers are likely to be employed and this permits a better classification and gradation of the pupils. It is usually better for pupils to be transported several miles than to walk a shorter distance. The consolidated school could better provide for teaching agriculture, manual training, cooking, sewing, etc. The fuel and janitor service could be better provided, hot noonday lunches could more easily be prepared and the school could be more of a community center. There are many other advantages claimed for the

consolidated school, perhaps the best being that almost invariably wherever tried it has proved successful.

Maintenance. Public schools are maintained by money received from the following sources:

1. Direct taxes. This can not exceed twenty-five mills on the assessed valuation in independent districts or fifteen mills in other school districts. The county treasurer collects these taxes and turns the money over to the school district treasurer.

2. Apportionment fund. This fund is derived from four sources.

- a. Interest on the permanent school fund. When Dakota Territory was created by congress in 1861 sections sixteen and thirty-six in every township were set aside as school sections. When South Dakota was admitted as a state in 1889 this provision was again made. Now when this land is sold the money is kept as a vast *permanent school fund*. This fund is not spent but is loaned and the interest is apportioned among the schools of the state.

- b. Rental of school lands. Much of the school land is still unsold. This is rented and the income is apportioned among the schools.

- c. School poll. The county commissioners may levy for school purposes a tax of one dollar on each person qualified to vote in the county.

- d. Fines collected for certain offenses also go into this apportionment fund. (Some fines go directly to the district.)

The money obtained from these four sources is apportioned among the schools in proportion to the number of children between the ages of six and twenty-one in each district. In order to find out how much of this appor-

tionment money each district should have a school census is taken each year.

Compulsory Education. The session laws of 1917 provide for compulsory education as follows:

"Every person having under his control a child of the age of eight years and not exceeding the age of sixteen years, shall annually cause such child to regularly attend some public school or private day school for the entire term during which the public school in the district in which such person resides is in session until such child shall have completed the first eight grades of the regular common school course or shall have completed a course in a private day school equivalent to the first eight grades of the regular common school course; provided, that the district school board or board of education, as the case may be, may after such child shall have completed the sixth grade or its equivalent, decrease the required term of attendance to not less than sixteen continuous weeks in each year until such child shall have completed the eighth grade of the regular common school course or its equivalent, or shall have reached the age of sixteen years, and provided further that this section shall not apply to a child otherwise instructed by a competent person and for a like period of time in the branches commonly taught in the public schools, or a child who has already acquired the branches of learning taught in the public schools or whose physical or mental condition is such as to render his attendance at school as hereinbefore required unsafe, impracticable, or harmful either to such child or others."

"Every person violating this law shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$20.00 and shall stand committed to the county jail until such fine and the costs of prosecution are paid. Such fine shall be paid to the treasurer of the school district in which the convicted person resides."

Truant officers are appointed by the boards in cities and towns having independent school districts, and the county superintendent is the truant officer for other districts in his county. Any persons who employ children under the age of fifteen during hours when the public schools are in session may be punished.

Teachers' Certificates

"No person shall be allowed to teach in any of the public schools of this state nor draw wages as a public school teacher who is not a holder of a valid teacher's certificate."

"No person shall be entitled to a certificate of any grade who has not attained the age of eighteen years and who does not present evidence of good moral character."—Session Laws, 1907.

Professional Certificates. Three kinds of professional certificates are issued by the superintendent of public

instruction—life diplomas, state certificates, and vocational certificates.

A *life diploma* may be obtained by a teacher who has had forty months of successful experience if (a) he is a graduate of the state university or an approved college and has taken a certain amount of professional work; (b) if he is a graduate of a state normal school, or normal school of equal grade, and has taken at least six years of work beyond the eighth grade; or (c) by passing examinations. After September 1st, 1921, applicants for a life diploma must present evidence of having attended an approved normal school or educational department of an approved college or university at least twenty-four weeks, unless they have had five years' experience in teaching or other educational work.

A *state certificate*, valid for five years and renewable, may be obtained by graduates of state normal schools, or other schools of equal rank, providing the course completed extends six years beyond the eighth grade and contains a certain amount of professional work, and providing also that the applicant has had eighteen months' successful experience in teaching. Provisional certificates, of equal rank with state certificates and valid for two years, are issued to normal school graduates who have not had the required experience in teaching.

A state certificate may also be obtained by examination provided the applicant has had at least twenty-four months' successful experience. The longer experience is required for those who are not normal school graduates because of their lack of professional training, which includes practice teaching under trained critics.

After September 1, 1920, applicants for state certificates must present evidence of having attended an approved normal school or educational department of an

approved college or university at least eighteen weeks, unless they have had five years' successful experience in teaching or other educational work.

Vocational Certificates may be issued by the superintendent of public instruction to teachers engaged exclusively in teaching manual training, domestic science, agriculture, music, drawing, commercial subjects, penmanship, foreign languages and kindergarten methods or art. Vocational certificates are valid for teaching only the subjects named thereon for five years and are renewable.

Elementary School Certificates. The following certificates are issued by the superintendent of public instruction and entitle the holders to teach in grades below the high school. *First Grade* certificates, valid for three years, authorize the holders to teach all first grade certificate subjects.

To obtain one of these certificates a person must pass a suitable examination or do four years' work beyond the eighth grade, two years of which must be in a state normal school or an approved school which has a normal department in which professional work and practice teaching are done. Successful experience covering a period of six months is also required. The first grade certificate may be renewed without examination if the teacher is successful. A *second grade* certificate may be obtained by examination or by doing two years' normal school work beyond the eighth grade. It is valid for two years. *Third grade* certificates may be obtained only by examination and are valid for one year in a certain district designated by the county superintendent. Only two of these certificates may be issued to the same person. A *primary certificate* may be issued to teachers in kindergartens and in first and second grades of city and town schools. It is valid for five years in the county where

issued but may be made valid in other counties by the endorsement of the county superintendent.

EXAMINATIONS. For *second grade* certificates: orthography reading, writing, arithmetic, physiology and hygiene with special reference to the effect of alcoholic drinks and narcotics upon the human system, geography, English grammar, history of the United States, civil government, South Dakota history, didactics, and drawing. *Third grade* certificates may be issued in the discretion of the state superintendent to those who have failed in their examination to measure up to the requirements of the department for a second grade certificate. For *first grade* certificates: current events, physical geography and American literature in addition to the foregoing subjects. For *primary* certificates: the same as for second grade excepting kindergarten and primary methods are substituted for civil government.

Professional Training. We have noted that professional training will be required of applicants for the life diploma after September 1st, 1921, and of applicants for the state certificate after September 1, 1920, unless they have had five years of teaching experience. After September 1, 1920, applicants for the first grade certificate must show evidence of twelve weeks' attendance or three years' experience; for a second grade certificate six weeks' attendance or two years' experience; for a primary certificate eighteen weeks' attendance or five years' experience.

SPECIAL CERTIFICATES of the first, second, or third grade may be issued by county superintendents to applicants who were unable to be present at the regular public examination. Such certificates, like the other elementary school certificates, are valid only in grades below the high school and only until the next regular examination.

SPECIAL PROVISIONS. In independent districts in cities of the first class (having a population of 10,000 or more) the board of education appoints two persons who, with the city superintendent as chairman, constitute an examining committee. This examining committee has power to issue certificates to teachers in that district.

In independent districts special teachers of music, drawing, penmanship, bookkeeping, foreign languages or kindergarten methods are not required to hold certificates.

FEES FOR CERTIFICATES. Fees must be paid by applicants for certificates as follows: Life diplomas, ten dollars; state and vocational certificates, five dollars (professional certificates are free to resident college or normal school graduates); other certificates, one

dollar. One-half of the fee is returned in case of failure to get a state certificate or life diploma.

REVOCATION OF CERTIFICATES. "The county superintendent is hereby authorized and required to revoke at any time first, second, or third grade certificates and primary teachers' certificates for any cause which would have prevented the issue of the same,—for incompetency, immorality, intemperance, violation of the state law, cruelty, general neglect of the business of the school,—and for refusal and neglect to attend regularly a county institute and at least one district institute each year, after due notice, provided that holders of first (grade) or higher certificates, in force, who have attended regularly at least four normal institutes may be excused by the county or state superintendent, in his discretion, from attendance at county institute for such current year."—Session Laws, 1907.

For similar reasons the state superintendent may revoke life diplomas or state certificates, and the city superintendent of cities of the first class may revoke certificates issued by the examining committee of which he is chairman.

REGISTRATION OF TEACHERS. The legislature of 1917 provided by law for the registration of teachers with the superintendent of public instruction and filing with him of recommendations and references. Any school officer may send to the department for this information as a guide in the selection of teachers. The teachers are not required thus to register and those who do so must pay a fee of one dollar. The fee may be increased to two dollars.

Duties of Teachers. Teachers have many duties and responsibilities. Four are mentioned in the course of study: 1. Keep a record of the enrollment, attendance, classification and progress of the pupils in the various subjects. 2. Make monthly and term reports to the clerk of the board and to the county superintendent. 3. Keep the school graded according to the course of study (to some extent pupils may be promoted by subjects). 4. Co-operate with the county superintendent. In towns and cities having a superintendent of schools other duties are usually prescribed. Attendance at institutes, taking up reading circle studies and other lines of professional improvement are expected of the teacher.

DISTURBANCE OF A PUBLIC SCHOOL. "Every person whether pupil or not, who shall wilfully molest or disturb a public school

when in session, or who shall wilfully interfere or interrupt the proper order or management of a public school by acts of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing his duty shall be guilty of a misdemeanor, and shall upon conviction thereof, before a justice of the peace, be punished by fine not exceeding twenty-five dollars or by imprisonment in the county jail not more than ten days, or by both such fine and imprisonment." (Section 141.)

DEFACEMENT OF SCHOOL PROPERTY. "Any pupil who cuts, defaces, or otherwise injures any school house, apparatus, or outbuildings thereof, is liable to suspension or expulsion; and on the complaint of a teacher to any member of the school board, the parents or guardians of such pupils shall be liable for all damages." (Section 142.)

School Library. When the county superintendent apportions to school districts the money due them from the apportionment fund he has set aside for a library fund for each district ten cents for each child of school age in the district. Each year library books are purchased with the money and sent to the different schools. The books are selected by a board, consisting of the county superintendent of schools, two other county officers,* the superintendents of city schools and principals of schools employing more than one teacher. This is called the county library board. The books must be selected from a list furnished by the state free library commission.

The clerk of the district has charge of the school library. The school board must provide a suitable book case. The books must be kept in the schoolhouse during the term of school. The books may be used by any resident of the district as well as by the teacher and pupils.

Civic Meetings. The electors of a school district at the annual election may levy a tax not to exceed \$50.00 for a year, to be spent by the school board in the organization, management and direction of non political, non sectarian public gatherings of the citizens for the discussion of public questions and for civic, social and educational

* The auditor and state's attorney.

activities. Preceding the election twenty-five per cent of the electors must petition the board to submit the question to a vote and notice of the proposed action must appear in the notice for the school election.

Classification of Schools. The usual classification of the schools of the state is into (a) elementary schools (often called "common schools") of eight grades, (b) high¹ schools of four grades, and (c) higher institutions.

Educational work is classified as (a) *elementary*, covering the first eight grades, (b) *secondary*, covering grades 9 to 12 inclusive, and (c) *higher*, the education which extends beyond the twelfth grade.

A college or a university course comprises four years' work beyond the twelfth grade and leads to what is called the "bachelor's degree."² A year's work of exceptional quality beyond the sixteenth grade leads to a "master's degree"³ and three years of work of unusual merit may lead to a "doctor's degree."⁴ The work of the state normal schools in this state is partly of secondary grade and partly of college grade. Students may be admitted from the eighth grade and the work extends two years beyond the twelfth grade. In some states the work of the normal schools is entirely of college grade. In fifteen states the normal schools offer four years of work of college grade, leading to the bachelor's degree.

Elementary Schools. "The true head of the system of education is the elementary school, the school of all the children of all the people."

Common School Subjects. "Instruction shall be given in the common schools of the state in the following branches, in the several grades in which each may be

1. In some places "Junior" high schools are established. Various plans are followed when this is done, the six-six arrangement being a common one. In this plan the elementary school comprises six grades and the high school six grades. The seventh, eighth and ninth grades thus comprise the junior high school and the tenth, eleventh and twelfth grades comprise the senior high school. Several other arrangements are also made.

2. B. A., Bachelor of Arts; Ph. B., Bachelor of Philosophy; B. S., Bachelor of Science, etc.

3. M. A., Master of Arts; M. S., Master of Science, etc.

4. Ph. D., Doctor of Philosophy, D. S., Doctor of Science, etc. The degree L. L. D., Doctor of Laws, and D. D., Doctor of Divinity, are conferred as honors. These degrees should not be confused with those of M. D., Doctor of Medicine, or D. D. S., Doctor of Dental Surgery.

HIGH SCHOOL BUILDINGS.



Sioux Falls.



Watertown.



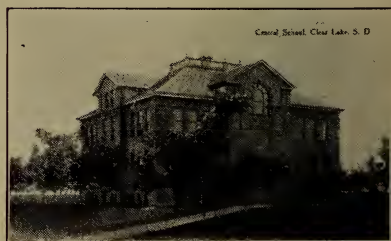
Pierre.



Webster.



Armour.



Central School, Clear Lake, S. D.

Clear Lake.

required, viz.: reading, writing, orthography, arithmetic, geography, primary language and English grammar, history of the United States, history of South Dakota, physiology and hygiene, with special instruction as to the nature of alcoholic drinks and narcotics and their effects upon the human system, civil government and drawing."

The common school may also provide for instruction in other branches, including high school subjects, if the electors at the annual election so order. The teacher must then hold at least a first grade certificate. The length of the school term or school year cannot be less than seven months. In a very large number of schools the term* is nine months in length.

Free Tuition to Eighth Grade Graduates. If a pupil who lives in a district which does not maintain a high school, finishes the eighth grade, the district is compelled by law to pay the tuition of such pupil in a high school or normal school, not to exceed \$3.50 per month. The purpose of this law is to place a high school or normal school education within the reach of every eighth grade graduate. If the members of the school board complain at the payment of this tuition, they should remember that it would be vastly more expensive to maintain a high school. The law is quoted in full in Chapter IV.

High Schools. High schools are maintained in nearly all towns and cities and in some consolidated or township districts. The courses of study cover one, two, three, or four years of work beyond the eighth grade. The subjects usually taught are ancient, medieval, and modern history, composition and rhetoric, American and

* In many cities summer terms are also provided for the children. Usually half day sessions are held. These were established in the beginning for backward pupils only, but in many places other pupils are taking advantage of these summer terms.

English literature, algebra, geometry, general science, physical geography, agriculture, botany, physics, chemistry, foreign languages, manual training, household arts, etc.

Those which meet certain requirements as to the qualifications of teachers, equipment, etc., are classed as accredited high schools. Credits earned by students in such high schools are accepted without question by higher educational institutions. The high schools of the state which do not meet these requirements are called non-accredited high schools.

ACADEMIES. In 1821 the first public high school was established in Boston. Before that time many academies and preparatory schools had been established and many of these are still maintained in spite of the rapid growth of high schools. There are several academies in this state and all the higher educational institutions excepting the state university maintain preparatory schools or academies giving work of high school grade.

Normal Schools. These have been established for the education and training of teachers. "As the teacher, so the school," is an old and wise saying. People are demanding better trained teachers for their children. In many states considerable normal training is required of all teachers* and only normal graduates or teachers of equal training and ability will be employed in the better schools. The normal schools provide instruction in the various branches and also give actual teaching experience, under the guidance of expert teachers. The state has established normal schools at Madison, Spearfish, Springfield and Aberdeen.

Colleges and Universities. The state university at Vermilion maintains five colleges—of arts and sciences,

* After September 1, 1920 or 1921, some professional training will be required of all applicants for teachers' certificates, the amount varying with the grade of certificate. A student who has completed a four year high school course may graduate from a normal school in two years and apply the credits toward a college or university course, graduating from the latter in two more years.

law, medicine, engineering and music. The state college of agriculture and mechanic arts is located at Brookings. In a great farming state like South Dakota agricultural education is of great importance. Connected with the state college is the United States experiment station and several sub-stations. A school of mines is maintained by the state at Rapid City. There are many higher educational institutions in South Dakota which are not supported by taxation. They are usually under the management of churches.

The principal denominational colleges and schools are Yankton College (Congregational) at Yankton; Redfield College (Congregational) at Redfield; Sioux Falls College (Baptist) at Sioux Falls; Huron College (Presbyterian) at Huron; Dakota Wesleyan University (Methodist) at Mitchell; Columbus College (Catholic) at Chamberlain; Augustana College (Scandinavian Lutheran) at Canton; Eureka College (German Lutheran) at Eureka; Lutheran Normal School at Sioux Falls; All Saints School (Episcopal) at Sioux Falls; Wessington Springs Seminary (Free Methodist) at Wessington Springs; Ward Academy (Congregational) at Academy; Plainview Academy (Adventist) at Redfield; Freeman College (Mennonite) at Freeman.

There are many schools throughout the state for the education of the Indians. The federal government operates four industrial schools for Indians in South Dakota. These are at Flandreau, Pierre, Rapid City, and Springfield.

Educational Survey. The legislature of 1917 provided for a survey of the public educational system of the state. A commission of three was appointed by the governor to employ non-resident educational experts nominated by the United States Commissioner of Education. It was believed that a careful study of our educational system would enable the school authorities and the legislature to remedy conditions found to be faulty and make many improvements.

SCHOOL LAW ITEMS

BIBLE READING. "No sectarian doctrine may be taught or inculcated in any of the schools of the corporation, but the Bible without sectarian comment, may be read therein."

TREE PLANTING. "It is hereby made the duty of the officers of every school district in the state of South Dakota to plant trees and shrubs upon the grounds of each schoolhouse in their district and to encourage the school children to plant such trees and shrubs and to cultivate and protect same."

SCHOOL PERIODS. The school year shall begin July first and end June thirtieth. A school month shall consist of twenty days, a school week of five days, a school day of five and one-half hours, exclusive of intermission. Provided, that the time specified as a school day shall not apply to primary schools. Saturdays shall not be counted as school days."

SCHOOL HOLIDAYS. "The teacher shall not hold school upon any of the following legal holidays: The thirtieth day of May, the fourth of July, the day appointed by the President of the United States for national thanksgiving, and the twenty-fifth day of December. But such days shall count as a part of the term and the teacher shall be paid therefor, but such pay shall not be drawn for any Sunday."

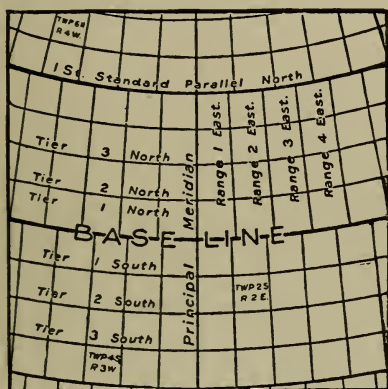
FRANCES WILLARD DAY. "September 28th, or the school day in each year hereafter nearest that date, shall be set apart and designated as 'Frances Willard Day' and in every public school in the State of South Dakota, one quarter of the school day shall be set apart for instruction and appropriate exercises in patriotism, civic improvements and the history and benefits of the prohibitory amendment to the constitution and the prohibitory laws of the State of South Dakota. It shall be the duty of all state, county, city and school district officers, and all public school teachers in the state, to carry out the provisions of this act. It shall be the duty of the state superintendent of public instruction to prepare suitable material for the observance of 'Frances Willard Day.'"

ETHICAL INSTRUCTION. "Moral instruction intended to impress upon the mind of pupils the importance of truthfulness, temperance, purity, public spirit, patriotism and respect for honest labor, obedience to parents and due deference for old age, shall be given by every teacher in the public service of the state."

Other Educational Topics. Some other topics on education are discussed in other portions of the book. For such topics as "state board of education," "regents of education," "county superintendent," "superintendent of public instruction," etc., consult the Index.

The Congressional Township

Land Marks.* The system of bounding farms and other land areas by reference to streams, roads, piles of stones, trees, stakes, and other landmarks prevails very extensively over the world. The early settlers who came to this country from Europe and settled along the Atlantic seaboard naturally followed this plan and do to this day.



Congressional townships are numbered in tiers north and south of a base line and in ranges east and west of a principal meridian.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

The numbering of sections in a congressional township. Sections 16 and 36 in every congressional township were given to the state by the United States for the benefit of the public schools.

A South Dakota man was visiting his boyhood home in Pennsylvania. Walking over the fields with the man who then owned the farm he noticed an old walnut tree in a neighbor's field.

"Why", said he, "did you sell this strip of land?"

"No", said the owner.

"Well, when I was a boy that tree was on our farm."

The matter was at once investigated and it was found that in some way the "ancient Landmarks" had been removed a few rods and this accidental discovery led to a restoration of the old line.

The Northwest Territory. This was the region north of the Ohio river from Pennsylvania to the Mississippi

* See page 227 of the author's mathematical geography, published by the American Book Company.

river. Different states had conflicting claims to portions of this region. During the Revolutionary War these states began giving up their claims in favor of the United States. By 1785 nearly all state claims were withdrawn and congress decided to have the region surveyed and sold to settlers.

The Survey Begun. Thomas Jefferson is believed to have suggested the general plan of our land survey. Thomas Hutchins was appointed "geographer of the United States," and after the selection of thirteen assistants, he was instructed to begin the survey.¹ Starting in 1786 from the southwest corner² of Pennsylvania, he laid off a line due north to a point on the north bank of the Ohio river. From this point he started a line westward into the Ohio country.

According to the directions of congress, every six miles along this base line meridians were to be laid off due north and south. Lines parallel to the base line were to be laid off every six miles. Each of the six miles square was to be divided into thirty-six square miles and these into quarters, thus spreading a huge "gridiron" or "checkerboard" over the land. The larger squares were called "townships."

Ranges of Townships. Principal meridians³ are run north and south and rows of townships extending north and south are called ranges. The eastern half of South Dakota was surveyed from the fifth principal meridian. This is located in eastern Iowa, Missouri and Arkansas. Sioux Falls and Milbank are in range 49 west of the fifth

1. There were then thirteen states and their mutual distrust of each other was shown by the fact that there was to be one assistant from each state, lest some states might have an advantage in this valuable region! Not all of the assistants accepted the appointments though enough did so that he could begin the work the next year.

2. This was the western end of the famous "Mason and Dixon's Line." Look this up in your history and report to the class.

3. Do not confuse these with the prime meridian from which longitude is measured.

principal meridian. Aberdeen, Redfield, Wolsey, Plankinton and Armour are in range 64 west of the fifth principal meridian. The six counties between Tripp and Fall River counties were surveyed from the sixth principal meridian. The rest of the state was surveyed from the Black Hills principal meridian. Lead and Deadwood are in range 3 east of the Black Hills principal meridian.

Tiers of Townships. Base lines are run east and west and parallel to them are rows of townships called "tiers." In locating a township the word tier is usually omitted. The base line to the fifth principal meridian passes just south of Little Rock, Arkansas. Townships are numbered northward from this to the Canadian line. Yankton and Springfield are in township number 93 north of the base line to the fifth principal meridian, Mitchell is in township number 103 north, etc. The base line to the sixth principal meridian is the southern boundary of Nebraska. The base line to the Black Hills principal meridian passes through the central part of Pennington county and forms the dividing line between Jackson and Haakon counties.

Standard Parallels. The eastern and western boundaries of townships are meridians, or north—south lines. Owing to the curvature of the earth these lines converge toward the north. At our latitude this convergence is about seven feet per mile or about forty-two feet to each township. If the same meridians were used for many townships the width of the townships toward the north would get very much smaller than six miles. To prevent this, new meridians are usually started every four townships or every twenty-four miles. The line on which this change of meridians is made is called a standard parallel. Because the meridians are here corrected as to their distance apart, standard parallels are often called

"correction lines." The line which forms the boundary between Minnesota and Iowa extends westward to Mellette county and is called a "secondary base line" to the fifth principal meridian. Twenty-four miles north of it is the first standard parallel north of this line. The seventh standard parallel north of the secondary base line to the fifth principal meridian forms the boundary between the Dakotas.

Survey Problems. Thirty-eight counties east of the Missouri have as northern or southern (or both) boundaries some standard parallel. See if you can find them on a state map. If you are driving northward and cross a standard parallel why is there the "jog in the road?" Look at the deed to some farm in your vicinity and see if you can explain the description of the land as given in it. From how many principal meridians has the area of South Dakota been surveyed? Which ones? Where these areas meet there is usually a fraction of a tier of townships left. The sections or fractions of sections in such an irregular strip are numbered exactly the same as though the township was complete. The triangular area of the former Wahpeton—Sisseton Indian reservation in the northeastern corner of the state presents an extremely interesting study because of the irregularities in numbering. In some places may be found two pieces of land having *exactly the same description*. The only way they can be distinguished by legal description is by stating that one of them was once a part of the reservation.

If you can talk this subject over with an experienced surveyor he will tell you many interesting things as to the practical methods employed in surveying. Many devices are used to lay off the lines as straight as may be on the curved surface of the earth. You will be interested in learning how "errors are thrown to the north and

west" by making certain boundaries of townships not true meridians, or north-south lines, but lines parallel to a true meridian.

In theory the townships and sections should be square and all be of the same size. It is impossible to lay off lines in perfect squares on the curved surface of the earth. True meridians approach each other as they extend northward toward the north pole. North-south lines therefore can not be parallel. The surveyor thus has many difficulties and has adopted a number of devices to make townships and sections as nearly square as possible and as nearly the same area as possible. The surveyor lays off one north-south line or true meridian from one standard parallel to another. Then he starts westward measuring off townships from this meridian. It is apparent that a line parallel to a meridian is not a true north-south line. After the surveyor has laid off six of these lines parallel to his meridian he lays off another meridian, or true north-south line. This makes the western of these ranges somewhat narrower toward the north. As the survey starts in the southeast and measurements are made toward the south and west, the principal errors and discrepancies are thus "thrown to the north and west."

The Civil Township

Congressional and Civil Townships. We have noticed that when the government land survey was begun the word "township" was used to designate a surveyed area of six miles square. As the survey was authorized by congress the term "congressional township" is very commonly used. No people occupied these congressional townships except Indians and occasional white traders or trappers. Now, the local organization of the people into

a government in New England was also called a township. To distinguish them, the area six miles square, comprising sections to thirty-six, is called a *congressional township*, and the organization of the people into a local government is called a *civil township*. A congressional township is simply so much surveyed land, and does not have officers any more than an acre or a square mile. A civil township is the public corporation organized for the purpose of carrying on government. Wherever the word township is used we always mean a civil township unless we are locating land according to the government survey. The word town is often used instead of the word township, but rarely in this book excepting in a few quotations from the law.

An Old Institution. The township is one of the oldest of our government divisions. It has been in existence since the days when our savage ancestors lived around the Baltic sea. In New England it is still the principal subdivision of the state, for in some states there is no county superintendent of schools, county register of deeds, etc., their duties being performed by township officers. With us, however, the township officers have few powers; the county is our principal subdivision of the state for governmental purposes.

Organization of a Township. The people of not less than one congressional township nor more than four may have a civil township organized if a majority of the voters petition the county commissioners, who provide for the election of officers. There must be at least twenty-five voters in the township to be organized.

Annual Town Meeting. It was a very ancient custom among our ancestors of Europe for the people of a community to meet and agree upon the method of regulating their local affairs. This is done in many countries today.

In Switzerland the people of the canton thus meet for passing laws, and even in Russia, whose government was, until recently, so stern and autocratic, the people of the mir, or local community used to meet and decide upon many affairs of a local nature. It is interesting to note that in Russia each household has one vote, cast by the head of the family,—the widow or the eldest son, if the father is dead.

"The citizens of the several towns of this state, qualified to vote at general elections, shall annually assemble and hold town meetings on the first Tuesday in March."—Pol. Code.

This meeting is called to order between nine and ten o'clock in the morning by the town clerk, or, if he is not present, by any voter. The presiding officer is elected by the voters present and is called the moderator. He is addressed as "Mr. Moderator." The voters at this meeting may decide what regulation shall prevail concerning animals running at large; appoint pound masters; vote money to repair the roads, build bridges, care for the poor, put up sign-boards, etc. They then proceed to elect township officers.

Board of Supervisors. There are three members of this board, elected for three years; one is elected each year. The supervisor who is serving the last year of his term is chairman of the board.

The duties of the board are very similar to those of the county commissioners—looking after the property of the township, acting as a board of equalization and assessment for the township, etc. The board must approve the bonds of the other township officers, though the bonds, for safe keeping, are filed with the county clerk of the courts. It levies a poll tax (poll means "head") on every man between the ages of twenty-one and fifty, unless he is a pauper or under a guardian. Firemen and militiamen

are also exempt from the poll tax. A road tax is levied against all taxable property in the county.

Culverts and Small Bridges. "The supervisors of any township and the trustees of an incorporated town shall cause to be constructed and installed at the expense of such township or incorporated town all culverts or bridges, the cost of which, as estimated by the county commissioners, does not exceed the sum of one hundred and twenty-five (\$125.00) dollars. Provided, that the township supervisors of any township may upon being authorized by the board of county commissioners, repair, build or construct within their township any bridge or culvert wherein the cost of such bridge or culvert exceeds \$125.00, and not more than \$1,000.00, and that the county in the discretion of the board of county commissioners, may pay not to exceed one-half of the cost of such culvert or bridge." Session Law for 1917, Chapter 257, section 4.

Board of Health. "The town supervisors shall constitute a board of health and within their respective towns shall have and exercise all the powers necessary for the preservation of the public health. The board of health may examine into all nuisances, sources of filth and causes of sickness and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or regulation made by any board of health and duly published shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not exceeding three months."—Pol. Code.

Township Clerk. He is clerk of the board of supervisors, keeping minutes of their meetings. He also keeps the minutes of the town meeting. He draws warrants on

the township treasurer, posts notices of elections, and sends to the county auditor a report of the tax to be levied for township purposes.

Township Treasurer. This officer has charge of money belonging to the township, receiving it from the county treasurer, who collects it with the state, county, and school district taxes.

Township Assessor. The assessor makes out a complete list of all property which is subject to taxation. He goes to each person in the township, so far as possible, in order to make out this list. His list is examined by the board of supervisors who meet as a "board of equalization and assessment." After making any corrections or changes the board sends the list to the county auditor.

Justices of the Peace. In organized townships there are two justices of the peace and two constables elected by the people of the township for two years. The justice may try civil cases where the amount in controversy is \$100.00 or less. In criminal matters he may try cases for which the punishment does not exceed \$100.00 fine or thirty days in jail, or both. He is a "committing magistrate" for crimes greater than he has the power to try, i. e., he binds over the accused to appear to a higher court for trial. [See Chap. VI.]

Constables. In each organized township there are two constables elected for two years by the people of the township. These are the local peace officers. They serve legal papers.

UNORGANIZED TOWNSHIPS. Where the townships are unorganized all township business is done under the direction of the county commissioners except in matters of justice.

VACANCIES. Section 1045 of the political code provides:

"When any town fails to elect the proper number of town officers, or whenever any person elected to a town office fails to qualify, or

whenever any vacancy happens in any town office from death, resignation, removal from town or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment by warrant under their hand, and the persons so appointed shall hold their offices until the next annual town meeting and until others are elected and qualified in their places, and shall have the same power and be subject to the same duties and penalties as if they had been duly elected." The provisions of this section also apply to the filling of a vacancy in the board of supervisors or justices of the peace. By "qualifying" for an office is meant taking an oath to support the constitution of the United States, the constitution of the state, and to faithfully perform the duties of the office. Usually a bond must also be given for the faithful accounting of all public money.

Good Roads Law

Old Plan. Before 1907 each township was divided into several road districts and a road overseer was elected for each one. The road tax was "worked out" by farmers. Under this plan each county had from seventy-five to two hundred different road overseers, few of whom had much expert knowledge of road-making or suitable tools with which to work. It was rare to find an honest day's work done, for the custom was to "take it easy" when working out one's road tax. The method was very wasteful and ineffective. With such a system, it is no wonder that visitors from foreign countries have said, "America has poorer roads than any other civilized country on earth."

New Plan. The legislature of 1907 made some changes in the law, doing away with road overseers and placing the work in the hands of the township board of supervisors. In 1911 the legislature provided that road taxes levied against property and a road poll tax of two dollars from every man between the ages of 21 and 50 (with a few exceptions) shall be *paid and not worked out* by the taxpayer. There is a township road tax and also a county road tax. Any road repairs in one place or con-

tinuous stretch of road which costs less than two hundred fifty dollars shall be done by contract under the supervision of the township board of supervisors. If the cost is over five hundred dollars the work is done by contract under the supervision of the county commissioners. In counties having a considerable area which is mountainous an engineer may be employed by the county.

Great improvements have been made in recent years and the new plan seems to meet with general approval. In its favor it is argued that a few crews of good road-makers with modern graders and other tools can accomplish far more work in building and repairing the roads of a county, do better work, and do it cheaper than under the old plan. In the more progressive portions of the United States the old plan is being done away with, and the result is that they are getting much better roads at no greater cost.

New Plan Optional. In many places there are objections to the adoption of the new plan, so the legislature provided that the people of a township may vote to continue working out their road tax at the rate of twenty cents an hour for a man, or forty cents an hour for a man and team. The county, too, may reject the "good roads law" by a majority vote.

STATE COURSE OF STUDY

Civics Outline

The study of civics like the study of history should begin in the lower grades. The formal study of the subject should not be taken up until the eighth grade.

History and civics are closely allied and should be correlated throughout the course. In the lower grades this can be done by means of history stories, songs, poems and biographies of great men.

Civics should lead the pupil to a definite understanding of the duties that he owes to society and to the state.

It should not be taught as the mere machinery of government but should be linked up with real life. The pupil should realize that he is a part of each political group studied. In this way he will develop a respect for society, government and good citizenship.

FIRST MONTH

Local Government.

A. School District.

1. Boundaries.

2. Kinds.

(a) Common District.

(1) One or more schools.

(2) District Board.

(a) Number of members.

(b) Chairman.

(c) Clerk.

(d) Treasurer.

(e) Meetings: Regular and special.

(f) Powers and duties.

(b) Independent Districts.

(1) Organization.

(2) Board of Education.

(a) Number of members.

(b) President.

- (c) Clerk.
 - (d) Treasurer.
 - (e) Meetings: Regular and special.
 - (f) Powers and duties.
- (c) Consolidated District.
 - (1) How organized.
 - (2) Board
 - (a) Number of members.
 - (3) Transportation.
 - (4) Advantages.
- 3. Maintenance.
 - (a) Direct Tax.
 - (b) Apportionment.
 - (1) Interest.
 - (2) Rent.
 - (3) School Poll.
- 4. Compulsory Education.
 - (a) Attendance.
 - (1) Maximum.
 - (2) Minimum.
 - (b) Penalties.
 - (c) Truant Officers.
- 5. Teacher.
 - (a) Qualifications.
 - (1) Age.
 - (2) Certificate.
 - (b) Duties.
 - (1) Keep record.
 - (2) Make final and monthly reports.
 - (3) Keep school graded according to course of study.
 - (4) Co-operate with County Superintendent.
 - (6) Disturbance of school.
 - (a) Penalties.
 - (7) Libraries.
 - (a) How provided.
 - (b) Use.
- B. Schools of the State.
 - (1) Common Schools.
 - (a) Number of schools.
 - (b) Subjects taught.
 - (c) Length of term.
 - (1) Minimum.
 - (2) Maximum.
 - (2) High Schools.
 - (a) Accredited.
 - (b) Non-accredited.
 - (c) Years in course.
 - (d) Subjects taught.

- (3) Normal Schools.
 - (a) Purpose.
 - (b) Name and location.
- (4) Colleges and Universities.
 - (a) Name and location.

C. Township.

- (1) Origin.
- (2) Congressional.
 - (a) Shape and size.
 - (b) Numbering of sections.
 - (c) Base line.
 - (d) Meridian line.
 - (e) Correction lines.
- (3) Civil.
 - (a) Purpose.
 - (b) Compare shape and size with Congressional.
 - (c) Town Meetings.
 - (1) Annual.
 - (2) Special.
 - (d) Officers.
 - (1) Supervisors.
 - (a) Number.
 - (2) Clerk.
 - (3) Treasurer.
 - (4) Assessors.
 - (5) Two justices of the peace.
 - (a) Jurisdiction.
 - (6) Duties of each.
 - (7) Qualifications.

CHAPTER III

THE TOWN, CITY AND COUNTY

The Town

Township, Town, Village. As we have seen, a civil township comprises the people occupying one or more congressional townships. A village is a collection of houses and inhabitants in a small area. The people of a village may desire to organize as a separate government from the township because they may wish fire and police protection, street lights, waterworks, sewerage, sidewalks, etc. The people of the entire township naturally do not want to be taxed to furnish these things to the village. Steps may then be taken to organize as a town with a government separate from the township. Such an organized town is said to be incorporated. We usually speak of a county or township as being "organized," but of a town or city as being "incorporated." In the way the words are usually used in South Dakota law, a village is simply a thickly settled portion of a township (or, if the township is not organized, of a county). A town is an incorporated village.

Incorporation of a Town. Before 1905, the law did not provide what the population must be in order to incorporate. The census of that year showed fifteen incorporated towns having a population of less than one hundred, one of them having only five people, counting men, women and children. The law of that year provided that no new town should be incorporated until a careful census had been taken of the population, which must



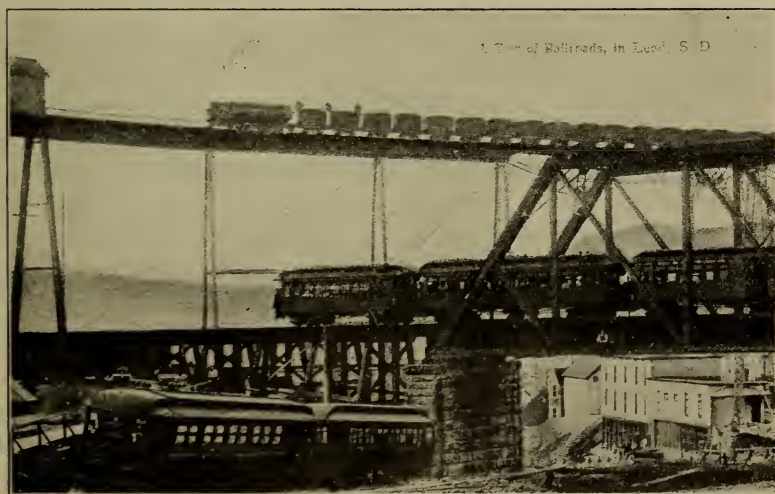
A View of the Town of Claremont.



Second Avenue Scene, Aberdeen.



Business District of Sioux Falls.



A View in Lead.

equal a certain number. In 1909 the legislature provided that there must be at least one hundred people in order to incorporate, thirty of whom must be voters.

A survey is made of the area to be included, and a map is drawn showing its boundaries. A census is taken of the population, and the names of the heads of families and number of persons in each family are listed. A petition signed by at least one-third of the voters in the area is presented, with the map and census list, to the county commissioners. The name desired for the town is given in the petition, and it must be different from that of any incorporated town in the state.

The county commissioners then call an election in the town to vote whether the town shall be incorporated or not. Three inspectors are elected at nine o'clock in the morning of the appointed day, and they conduct the election. If the vote is favorable the county commissioners declare the town to be incorporated and settle and adjust all claims and accounts between the township and town.

The inspectors divide the town into not less than three nor more than seven districts, and call an election to elect the officers for the town. The regular elections are held on the third Tuesday of April (law of 1909).

Town Trustees. One trustee is elected from each district mentioned in the preceding paragraph. The board of trustees elects from its members a president and has many powers similar to a township board of supervisors, acting as a board of health and board of equalization and assessment, caring for town property, etc. A few additional powers are given to the board of trustees, such as providing for a fire department, for sidewalks, etc. The board of trustees appoints a *marshal* (corresponding to township constable) and a *road overseer*.

Other Elective Officers. There are elected each year a clerk, assessor, treasurer, and justice of the peace. If desired, a town may have two justices of the peace. The duties of these officers are very similar to the duties of corresponding officers of the township. Thus the town clerk is clerk of the board of trustees, posts notices of election and draws warrants for the payment of money by the town treasurer. All offenses against the ordinances of the town must be tried before the town justice of the peace. In other matters he has the same jurisdiction as a township justice.

The City

Incorporation of a City. Any incorporated town having two hundred fifty or more people may be incorporated as a city. Upon receiving a petition signed by one-eighth of the legal voters of the town, the trustees call an election to ascertain whether the people desire to incorporate as a city. If the vote is favorable, another election is held and city officers are elected.

Special Charters. Before South Dakota became a state the territorial legislature granted special charters to cities, providing by special laws how each city should be governed. The state constitution prohibits the legislature from doing anything of this kind (see Article III, Section 23). The state legislature in 1890 provided by general law for the government of all cities that might afterwards be incorporated, and also provided that any city then having a special charter might incorporate again under the general law if the voters of the city wanted to do so. Nearly all of our cities have discarded their charters and incorporated under the general law.

Municipal Corporations. Cities and towns are called municipal corporations. All municipal corporations,

excepting those which may operate under a territorial charter, are classified into three classes.

a. Municipal corporations of the first class. These are cities governed by a "commission." These cities elect either three or five commissioners, regardless of the portion of the city in which they live, and these commissioners have general charge of the government of the city. One of the commissioners is the mayor. A further discussion of this form of government is found under the title, "Cities under Commission."

b. Municipal corporations of the second class. These are cities governed by a "council." In these cities representatives called aldermen are elected from districts called wards,* and these aldermen, together with the mayor, who is elected at the same time, constitute the city council. This class of cities is discussed under the title, "Council Cities."

c. Municipal corporations of the third class. These are the incorporated towns already discussed.

Council Cities

Council Cities. Cities in which the governing power is vested in a city council are called "council cities." Where the power is vested in a commission they are called "cities under commission."

City Council. From each ward two aldermen are elected for two years, one each year. These aldermen constitute the city council, together with the mayor, who is the presiding officer, though he has no vote excepting in case of a tie.

The city council is a legislature for the city, being given many lawmaking powers. The laws it adopts for the city are called city ordinances. Some of its powers

* All cities are divided into wards for convenience in conducting elections, but only council cities elect aldermen as representatives from wards.



SOME ARTISTIC STRUCTURES.

Methodist Church, Aberdeen.
 Court House Square and Co. H Monument, Watertown.
 Elks' Club House, Watertown.
 Carnegie Library, Milbank.

are as follows: To control the property of the city; to provide for the payment of the debts and expenses; to borrow money and issue bonds (within certain limits); "to lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and public grounds, and vacate the same"; to provide for lighting and cleaning the streets, to name or change the name of any street; to establish regulations for the construction of buildings, the piping for gas and water, and the wiring for electricity; to provide for waterworks and sewerage; to license peddlers, pawn brokers, draymen, hackmen, plumbers, electricians, shows, theaters, etc.; to regulate the inspection and sale of bread, milk, meat, butter, and vegetables; to provide for fire protection; to appoint a board of health and make health regulations; to regulate street railways; and to provide for cemeteries, parks, and public libraries.

From a reading of the list of powers of the city council (and there are many other matters which they must regulate) it is readily seen that the management of a city is the most complex government we have. It is also the most expensive. As the city gets larger, the difficulties and problems increase.

City Ordinances are passed by the city council in very much the same way as laws are passed by the state legislature,—introduced, two readings, signing by the mayor (he may veto). The ordinances must be published in the official newspaper (the one selected by the council for such publications).

The Initiative and Referendum* apply to city ordinances. An ordinance may be prepared by anyone, and upon being petitioned by five per cent of the electors this proposed ordinance must be submitted to a vote of the

* The initiative and referendum are more fully explained in Chapter IV.

people of the city. If the city council should pass an ordinance that met with objection, upon receiving a petition signed by five per cent of the voters, the council must submit the ordinance to a vote of the people, unless it is one "for the immediate preservation of the public peace, or the public health, or expenditure of money in the ordinary course of the administration of affairs."

The Mayor. The chief executive officer of a city is called a mayor. He is elected for two* years. As we have already noticed, he presides at meetings of the city council. As a peace officer he is given power within the city limits equal to that of a sheriff. He may pardon persons imprisoned in the city jail for violating city ordinances. He appoints many of the officers, subject to the approval of the city council.

It is the mayor's duty to see that law is enforced in the city. Since he appoints policemen and other officers, and may remove them, he has great influence in the management of city affairs and is in control of evils and vice which are too often found where people are crowded together as they are in cities. While much depends upon having a good mayor, he can do little unless he is supported by law-abiding people. A wholesome sentiment on the part of the citizens and a good mayor and other officers are both necessary for good city government.

City Treasurer. The treasurer has duties similar to those of the treasurer of the town, township, and county. The county treasurer collects the genral taxes for the city and some of the special taxes, but the city treasurer collects such special taxes as water rents, license fees, etc.

City Courts. A police justice and a city justice of the peace are elected for two years. These officers have the

* This applies only to council cities. The mayor of a city under commission is elected for five years the same as other commissioners.

same powers as justices of the peace of the township. It is customary, however, for policemen to take persons whom they have arrested before the police justice.

Any city having a population of 5,000 or more, or a population of 1,500 if a county seat, may establish by vote a *municipal court* having power to try most kinds of civil cases where no more than five hundred dollars is in dispute, and **criminal** cases of misdemeanors. The city auditor is the clerk of this court, and the judge must be a licensed attorney.

Appointive Officers. The law of 1907 (Chapter 87) provides:

"There shall be appointed by the mayor, with the approval of the city council, a city auditor, city attorney, city engineer, city assessor and such other officers as may by the city council be deemed necessary and expedient."

The *city auditor* is clerk of the city council, draws warrants on the city treasurer, keeps the records, plats, and books of the city, issues licenses which are authorized by the council, etc. The *city attorney* is the legal adviser of city officers, inspects bonds issued by the city, and defends the city and looks after its interests in all legal actions. The *city engineer* makes surveys, locates sewers, lays off sidewalk grades, curbing, etc. The *city assessor* performs duties exactly like those of township and town assessors.

Other officers usually appointed are a *building inspector* to examine and approve all plans for buildings and their construction, to see that chimneys, foundations, walls and partitions are safe; a *wiring inspector* to see that all electric wiring is done according to law; a *street commissioner* to see to the grading, caring for, and cleaning of the streets and alleys; a *water commissioner* to look after the laying of water pipes, sewers, etc.; a *health inspector* to see that garbage and offensive matter be not

left in streets and alleys, post quarantine cards, disinfect houses, etc. The *police department* is placed in charge of a chief of police acting under instructions from the mayor. The *fire department* is also in charge of a chief, with other officers and employes.

Cities Under Commission

A New Plan. Within recent years a new form of city government has been adopted by hundreds of cities that were not satisfied with the way their affairs were managed. Galveston, Texas, Los Angeles, California, and Des Moines, Iowa, have been the pioneers in trying various new features of this plan. In 1907 the legislature of South Dakota passed an excellent law which includes the best features of the various plans that have been most successful.

THE COMMISSION THEORY. The theory upon which this plan is based is that the management of the affairs of a city is a business proposition to be placed in the hands of a small board having large powers just as any other corporation is managed. This board is elected by the entire city and held responsible by the entire city instead of being made up of representatives of wards of the city. Under the ward system a person who is unfit for the office may be elected alderman from a ward and he will act for the entire city, vote to expend the city's money, and the city as a whole may not think he is fit to serve, but as long as he can get elected from that ward he will remain in the council. In the city of Chicago a man who was noted for his bad character owned almost every saloon and tenement house in his ward and controlled the voters there so that he was elected over and over again, although the city as a whole did not favor his election. When, too, an alderman elected from a ward may seek to have his ward improved at the expense of the city. According to the commission theory, a city is too compact a group to be divided off into geographical districts, each of which is to have its representatives on the governing board. Five of the best men should be chosen to rule the city regardless of the parts of the city in which they live.

Term of Office. According to the commission theory, officers should be elected for a term that is long enough to enable them not simply to learn the duties but to become competent to discharge them well. Each com-

missioner is elected for five years. One is elected each year.

The Recall. An unwise choice might be made and an incompetent commissioner might be elected. A provision is made whereby the people may put a commissioner out of office and elect another if they choose. A petition signed by fifteen per cent of the electors may demand an election to decide whether a commissioner shall be retained in office or another elected in his place. (See page 214.)

A Board of Specialists. One of the principal advantages of the commission plan is that the work is apportioned among the commissioners according to the special knowledge and ability of each. Where there are five commissioners they are designated as follows:

a. *Police and Fire Commissioner.* This officer has under his special charge the enforcement of all police regulations of the city and general supervision over the fire department.

b. *Commissioner of Streets and Public Property.* He has charge of the supervision of streets and alleys, public grounds, and the lighting and cleaning of them.

c. *Waterworks and Sewerage Commissioner.* This commissioner has charge of the construction, maintenance and operation of the waterworks and sewer system and sees to the enforcement of all regulations concerning them.

d. *Commissioner of Finance and Revenue.* He has charge of the laws for the assessment and collections of taxes of all kinds and manages the finances of the city.

e. *Mayor.* One commissioner has general duties as mayor. He presides at meetings of the board and votes with the other commissioners, but has no veto power. Each commissioner has the power of a sheriff as a peace officer.

SOME REPRESENTATIVE COUNTY COURT HOUSES



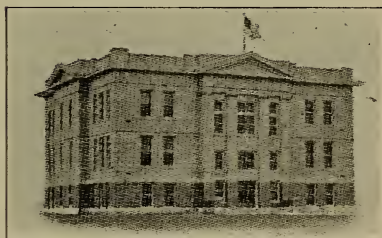
Union.



Day.



Stanley.



Walworth.



Hyde.



Potter.

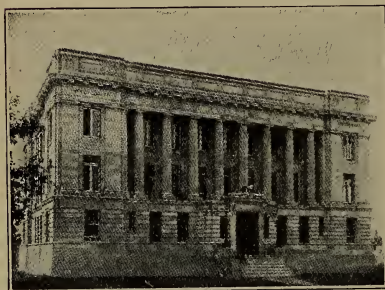
SOME REPRESENTATIVE COUNTY COURT HOUSES



Fall River.



Butte.



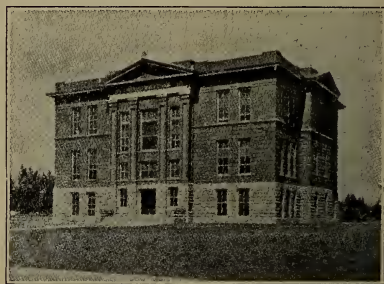
Moody.



Clay.



Bon Homme.



Sanborn.

SOME REPRESENTATIVE COURT HOUSES.



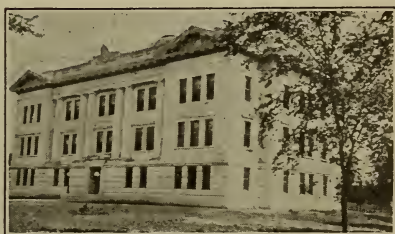
Hamlin.



Spink.



Chas Mix.



Grant.



Kingsbury.



Meade.

The board as a whole has the same powers as a city council under the council system. As under the council system, cities under commission are divided into three classes on basis of population. Salaries are classified according to the class to which the city belongs.

RESPONSIBILITY FIXED. An argument advanced by those who favor the commission form of city government is that it is much easier to fix responsibility for defects under this system than it is under the council form of city government. Under the commission system it is usually easy to know who is at fault if the streets are not properly cleaned or other defects appear. Excepting at the first election or when vacancies are to be filled, only one commissioner is elected at a time. Suppose it is waterworks and sewerage commissioner; the voters of the city then may choose the person who is most capable of managing this important department of the city.

Qualifications of Commissioners. A commissioner must be an elector, twenty-six years old, and a resident of the city at least two years.

Other Officers. All of the usual officers and employees, such as city engineer, attorney, etc., are chosen and removed by the board.

Cities May Adopt. Any city incorporated under the council system may adopt the commission plan. A petition signed by fifteen per cent of the voters may demand that an election be held to decide whether the plan shall be adopted.

The following South Dakota cities were among the first to adopt the commission plan: Aberdeen, Canton, Dell Rapids, Huron, Pierre, Rapid City, Sioux Falls, Vermillion and Yankton.

City Manager Plan. A modification of the commission city plan is being introduced in a number of the cities of the United States whereby a city manager is employed who has had special training and experience in managing the affairs of a city. This plan may be adopted by any South Dakota city under commission. If this is done

a number of changes are made, such as the size of the commission and the term of office of the commissioners.

CITY MANAGER PLAN SUCCESSFUL. This plan seems to be meeting with success wherever introduced. It is somewhat similar to the management of a city school system in that the board selects a superintendent who has general charge of the schools. It is also somewhat similar to the management of any other big corporation, like a bank or a railroad company. The board of directors selects a president who has large powers and responsibilities.

The County

Functions of County Officers. The county is an important subdivision of the state for governmental purposes. Its officers carry out the provisions of state laws within the county. Thus the sheriff arrests persons who are accused of violating state laws within the county, the game warden protects the game according to the state game laws, the register of deeds records deeds and mortgages as the laws of the state provide that they shall be recorded, and the county superintendent of schools sees to the enforcement of the school laws of the state within his county. The county officers are, in reality, state officers whose power is limited to the county. Of course, they are called county officers, since they are, in nearly all cases, elected by the voters of the county and paid by the taxpayers of it. One of them, however, is called *state's attorney*, and for this reason many students confuse him with the attorney-general of the state. Although sometimes confusing, the term is better than county attorney, as he is called in many states, for his duty is to enforce state laws and act as an attorney for the state within the county.

Relation of County to State. It is thus easily seen that the relation of the county to the state is not like the relation of the state to the nation. The county is, in the main, a district for the administration of state laws. A

state is not simply a district for the administration of the laws of the United States, for the state carries on its own government and has nothing directly to do with the administration of national laws. The nation has its own officers to enforce its laws. If the county officers simply carried out the provisions of laws adopted by and for the county and left all enforcement of state laws to state officers, then the county would sustain the same relation to the state that the state does to the nation.

County Enforces State Law. It is true that counties do adopt a very few regulations of their own and the county officers see that these regulations are enforced. These are so few, however, that they may be ignored. The student should think of the state as providing for elections, the county as carrying out the election laws; the state as providing for registering deeds and other instruments, the county as providing the means for doing the work; the state as providing for public school supervision, the county as furnishing an officer and means for carrying out the law; the state as providing for the punishment of crimes, the county as supplying a sheriff and jails for the arrest and custody of accused persons, a clerk for recording the court proceedings, a courthouse for the trial, etc.

To Organize a New County. We have in South Dakota several unorganized counties; that is, counties having no officers. These are created by the state legislature and attached to nearby organized counties for taxation and court purposes. A taxpayer in an unorganized county pays his taxes to the treasurer of the organized county to which it is attached.

An unorganized county constitutes a single school district with a school board of five members and a superintendent, all appointed by the governor.

"Whenever the voters of any unorganized county in this state shall be equal to one hundred and fifty or upwards, and at least one hundred and fifty shall desire to have said county organized, they may petition the governor, setting forth that they have the requisite number of legal voters to form a county organization, and request him to organize said county as hereafter provided."—Political Code.

"No new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified."—Const. Art. IX.

The petition, containing the proper number of signatures, describes the boundaries of the proposed county and suggests the name desired for the county. Upon receiving it the governor calls an election in the proposed county to elect officers and locate a county seat. After the county officers have been elected, furnished bonds and taken the oath of office, the county is fully organized.

"Each organized county is a body corporate for civil and political purposes only, and as such may sue and be sued, plead and be impleaded in any court in the state."—Political Code.

County Commissioners. This board consists of either three or five members. The number may be increased from three to five or decreased from five to three by a favorable vote of the people if a vote is taken on the petition signed by twenty per cent of the voters. The county is divided into commissioner districts and one commissioner is elected by the voters of each district for four years.

At the first regular meeting in January each year they select one of their number to act as chairman of the board. The county auditor is the clerk of the board and keeps minutes, or records, of their meetings. He is not a member of the board, though he is always present at their meetings as their clerk.

The board has charge of all property of the county, such as the court house and grounds, jail, county hospital, and poor farm, if the county has them. All work

that is done at the expense of the county is looked after and accounted for by this board.

The county commissioners have charge of most of the bridge building or repairing, order it done and authorize the payments from county funds. The state engineer must approve bridge plans and supervise bridge construction. They also have charge of county road building which may be ordered by a majority vote of the electors of the county.

The board examines all bills against the county and may authorize their payment. The clerk of the board (county auditor) draws warrants for the payment of such bills, the chairman of the board also signs them and the treasurer of the county then pays them. The board represents the county in any lawsuit in which the county is financially interested. The bonds given by the county officers for the faithful accounting of money must be approved by the board. If the county wishes to borrow money, say, for the building of a court house, bonds (notes, or promises to pay) are issued by the board and then sold to anyone who wishes to loan money to the county. In most cases the county commissioners may not issue bonds unless a vote of the people of the county is in favor of it. The board levies the taxes for paying the expenses of the county. It examines all accounts of county officers and fills vacancies which may occur in any county office excepting county judge (see p. 77).

There are four regular meetings of the board provided by law. These are on the first Monday in January, April, July and October. Two other meetings are provided for in connection with assessing property; that is, deciding the value of property for taxation. Special meetings of the board may be called at any time, as agreed by themselves or called by the county auditor.

"The accessors shall meet the commissioners and auditor at the office of the county auditor on the first Tuesday of April for conference with the commissioners and auditor in reference to the performance of their duties."—Political Code.

"The county commissioners, or a majority of them, with the county auditor, shall form a board for the equalization of the assessment of property of the county. They shall meet for this purpose annually, on the first Tuesday in July, at the office of the auditor. . . . During the session of said board of assessment and equalization any person, or his attorney or agent, feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any alleged errors in the listing or valuation of his property, whether real or personal, and the board may correct the same as shall be just."—Political Code.

BOUNTY FOR FOREST TREES. "The county commissioners shall pay to any person who shall have, after the year 1915, planted, cared for and cultivated successfully, forest trees, for a period of one year, a bounty of five dollars per acre each year for the period of ten years."—Session Laws, 1917.

The commissioners are members of the county board of education, which meets every five years for adopting school books to be used in the county. After elections held for county or state officers, the board meets and canvasses the returns from the different portions of the county. They examine the reports from the townships, cities and towns and decide what county officers were elected. Their clerk, the county auditor, sends reports as to all votes cast to the secretary of state.

"In each organized county at the first general election held after the admission of the state of South Dakota into the Union, and every two years thereafter there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner and superintendent of schools, whose term of office respectively shall be two years and except the clerk of the court no person shall be eligible for more than four years in succession to any of the above-named offices."

"There shall be elected in each organized county a county judge, who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law."—Constitution.

These county officers are required to furnish bonds for the faithful performance of their duties and to take an oath to support the constitution of the United States and the constitution of the state and to perform their duties to the best of their ability. The term of office of the county auditor begins the first Monday in March follow-

ing his election, that of the County Superintendent of schools the first Monday in June and that of all others the first Monday in January. Their salaries in most cases are based upon the population of the county.

Clerk of Courts. This officer acts as clerk of the county court and as clerk of the circuit court, recording what is done in these courts when they are in session. He administers oaths to witnesses, jurymen, and to others when necessary in connection with trials or legal actions. He assists in selecting jurymen. When the circuit court meets he presents to the judge a list of the cases to be tried. This is called the court calendar. He issues naturalization papers by means of which foreigners become citizens. He issues marriage licenses, and the clergyman or magistrate who performs the marriage ceremony must file with him a record of the marriage.

He is the superintendent of vital statistics for the county and reports of all births and deaths must be made to him by physicians, parents or other relatives. These records he sends each month to the superintendent of census and vital statistics (the secretary of the state historical society) at Pierre.

He has a number of other duties, such as recording commissions of notaries public, approving their bonds, recording the names of partners in a firm (not a corporation) when the name of the firm does not show who the partners are.

Sheriff. The general powers of this officer are given in the political code of laws as follows:

"The sheriff shall keep and preserve the peace within his county, for which he is empowered to call to his aid such persons or the power of the county as he may deem necessary. He must also pursue and apprehend all felons; and must execute all writs, warrants and other process from the circuit court, or from a justice of the peace, which shall be directed to him by legal authority. He shall attend at the circuit court and the sessions of the board of county commissioners when requested by the latter to attend."

"He shall serve and post up all notices he may receive from the county auditor or the board of county commissioners, give notice of special and general elections, and shall keep his office at the county seat."

Among the "writs, warrants, and other process" of a court may be named warrants of arrest and execution for debts or financial claims (see Glossary).

A warrant of arrest is an order in writing in the name of the state, signed by a magistrate, commanding the arrest of the defendant, and may be substantially in the following form:

County of

The State of South Dakota. To any sheriff, marshal or policeman in this state (or in the county of.....as the case may be):

Information on oath having been this day laid before me that the crime of (designating it) has been committed and accusing C. D. thereof.

You are therefore commanded forthwith to arrest the above named C. D. and bring him before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at..... this.....day of....., 19..

E. F., Justice of the Peace (or as the case may be).

—Code of Criminal Procedure.

The sheriff has charge of the county jail.

County Auditor. As we have already noticed, the county auditor acts as clerk of the county commissioners. If you have money due you from the county you go to the auditor, who draws a warrant on the county treasurer for the sum. In most cases your bill would have to be first approved by the board of county commissioners. Thus all claims against the county pass through his hands and he keeps accurate records of them. Monthly settlements between the auditor and the treasurer are made to keep their accounts correct.

He makes out lists of the taxes due from each taxpayer for the county treasurer, making a report of them to the state auditor. He also sends a report of the assessor's roll to the state auditor. He assists in loaning money of the permanent state school fund and in the leasing of school lands. He is a member of the county library board and the board of education for adopting school books.

He sends out all notices of elections and assists in canvassing the returns. Candidates for county and legis-

lative offices file with him their nominating petitions and he makes out ballots to be printed and sent to the judges of election in each voting precinct (division for purposes of voting). He also provides sample ballots and instructions to voters.

Register of Deeds. As the name suggests, this officer records deeds to land within his county. When land is sold a conveyance, usually called a deed, is given. One of the most common forms is the warranty deed (see Glossary). This is recorded with the register of deeds as a public notice, and should two deeds be given by the owner, by mistake or otherwise, the one having his deed recorded first, if a purchaser in good faith, would be considered the true owner.

In some states if the owner of land is married both husband and wife must sign the deed or one of them may have a certain claim on the land when the other dies. The right which a wife may have in lands of her husband is called dower, and the right which a husband may have in lands of his wife is called curtesy. Both dower and curtesy rights have been abolished in South Dakota. If the land sold is the home both husband and wife must sign the deed, whichever owns it, or the deed is void. It is customary, however, to have both sign all deeds to land lest it might be claimed afterwards that it was the home that was sold.

In case of a lawsuit in which the title, or ownership, of real property (see Glossary) is in dispute a notice to that effect is filed with the register of deeds. This is a warning to any purchaser of the land. Similarly, if the owner has done some building and has not paid for the lumber or labor a lien or claim may also be filed so that no one will purchase the property ignorant of the claim against it. For similar reasons mortgages, which are conditional deeds, bills of sale, and other instruments are recorded with the register of deeds.

TORRENS LAND SYSTEM. The legislature of 1917 adopted a system for the registration of land whereby it is possible for an owner of land to have the title to the land examined by an attorney appointed by the circuit judge. After the examiner reports to the court a decree of registration may be made. The owner may thus receive a "certificate of title," which greatly simplifies the matter of land transfers, so far as the question of ownership or claimants to title are concerned.

County Treasurer. This officer is the principal tax collector within the state. Taxes levied by the state, county, township, town, city, and school district are paid

to the county treasurer, who sends the proper amounts to the treasurers of the state, township, etc. The assessments of property to be taxed and the rate of tax in each city are reported to the county auditor. He then calculates the city tax due from each property holder in the city and reports the amount to the county treasurer. The county treasurer collects this tax and sends it to the city treasurer. State taxes, township taxes, town taxes, and school district taxes are similarly calculated and paid. The county treasurer takes charge of the money belonging to the county, depositing it in banks when the county commissioners direct him to do so.

A tax of \$61.27 was paid in 1914 on a city lot in Aberdeen, the assessed value of which was \$2,960. The total rate to be paid was 20.7 mills, or 2.07 per cent. One-half of the tax had to be paid before April 1 and the balance before November 1. This money was distributed as follows:

State tax (1 mill tax or $.001 \times \$2,960$)	\$ 2.96
County tax (2 mills tax or $.002 \times \$2,960$)	5.92
School tax (7.7 mills tax or $.0077 \times \$2,960$)	22.79
City tax (10 mills tax or $.01 \times \$2,960$)	29.60

Total (20.7 mills tax or $.027 \times \$2,960$).....\$61.27

This does not include the tax on personal property, which was calculated in exactly the same way. Note that no federal tax is included in this list. There is no property tax or other direct tax levied by the United States, the money to support the federal government being derived from other sources.

State's Attorney. This is a very important officer for enforcing the law. Every criminal case before a court in the state is prosecuted by the state. The crime is said to be committed against the state. The thief who steals from you not only violates your rights but endangers those of everyone else. The state therefore provides for a lawyer in each organized county to attend to the prosecution of crimes. When a crime is committed the person injured does not need to employ a lawyer to have the accused person tried; it is the business of the state's attorney to do this if complaint is properly made.

The state's attorney is also the legal adviser of the county officers and a member of the county board of

education, which adopts text books. He must be licensed to practice law in the state.

County Surveyor. His duty is to make surveys, to lay off roads, and locate boundary lines. He is paid according to the amount of work done.

County Coroner. The principal duty of this officer is to "hold an inquest upon the dead bodies of such persons as are supposed to have died by unlawful means." He then summons a jury of three persons and examines witnesses. The verdict of the jury is a statement of what is believed to be the cause of the death.

This officer in early times in England was the highest one in the county, receiving his appointment from the king (coroner is from the Latin *corona*, crown). Next below him was the sheriff (shire reeve). As a survival of this relationship the coroner is the only officer in the county who may serve legal papers on the sheriff, and if the sheriff is put in jail the coroner becomes the jail keeper. In case of a vacancy in the office of sheriff the coroner takes his place until the county commissioners fill the vacancy.

County Superintendent of Schools. This important officer has general supervision of the schools of the county. To be qualified to hold this office the superintendent must be the holder of a teacher's certificate of the first grade or higher, which has been valid in the state for at least one year before he assumes the office. He visits schools, conducts meetings of teachers and school officers, provides for teachers' institutes, has charge of the examination of teachers (receiving questions from the state superintendent and forwarding answers to him), and has power to revoke a teacher's certificate if there is sufficient reason. He may grant to a teacher a special certificate which is valid only until the next teachers' examination. He conducts reading circles among the teachers. He has important duties in checking over all accounts of the school treasurers to see that

they are correct. The clerk also sends in reports to him, and he is the adviser of school boards and teachers. Many matters are referred to him for decision. He makes a plat of the county showing the boundary, location, and name of each district. He sends a complete report to the state superintendent of the finances, school population, and teaching in each district.

He apportions to the school districts the money due them from the interest on the permanent school fund. From this money an amount equal to ten cents for each child of school age in the district is set aside for the purchase of books for the library of the district. The county superintendent is chairman of the board, which selects these books from lists approved by the state superintendent. He is also chairman of the board which adopts text books for the county.

The county superintendent of schools is paid by the county for his necessary traveling expenses in visiting schools or attending teachers' meetings within the county. The total thus allowed in one year may not exceed four hundred dollars. His expenses are also paid for attendance at meetings called by the state superintendent of public instruction.

The county superintendent of schools cannot serve more than four years in succession. A great many people consider this to be unfortunate, as it often deprives the people of the services of a competent official. The constitution should be amended so that the superintendent might be retained as long as he gave good service.

County Judge. This officer, like the state's attorney, must be "learned in the law." His duties may be conveniently grouped under three headings, for he may hold three kinds of court: (1) probate, (2) juvenile, and (3) civil and criminal. These are discussed in Chapter VI, the judicial department.

Probate Cases. The principal duties of the county

judge are to look after the property of deceased persons and see that their wills, if they have made wills, are carried out, or to see that the property is divided properly among the heirs. He appoints guardians for orphans who are minors and for insane persons. See administrator, executor, etc., in Glossary.

Juvenile Cases. "Whenever any child sixteen (16) years of age or under, is arrested with or without warrant, such child shall, instead of being taken before a justice of the peace or police magistrate, be taken directly before the county court." Unless the offense charged be felony, this court has power to send a delinquent child of eighteen or under to the state training school, or may have the child and his parents or guardian report his conduct from time to time to see whether the child is reforming.

Criminal and Civil Cases. In counties having a population of 10,000 or more, the county court may try civil cases where the amount in dispute is not over \$1,000, and criminal cases of misdemeanors (see Glossary).

In case of a vacancy in this office the governor appoints someone.

COUNTY FARM BUREAU. This organization may be formed to promote agricultural extension work and employ a county agent to take charge of the work. The money for the maintenance of this work, which ought to be carried on in every county of the state, is furnished partly by voluntary contributions and partly by appropriations from the county, state and the United States.

COUNTY BOARD OF EDUCATION. This board meets every five years, 1912, 1917, etc., to adopt school books for the county. It consists of the county superintendent of schools, presidents of boards of education in cities and towns, county auditor, state's attorney, board of county commissioners, and one person from each commissioner district elected by members of school boards within the district. For county library board, see page 30.

PAUPERS AND INSANE. Many counties maintain county farms, where paupers are cared for. Persons adjudged insane are sent to the state asylum at Yankton, and if they are unable to pay their expenses there, the county pays the cost.

SECOND MONTH

TOWN.

- (1) Organization.
- (2) Officers.
 - (a) Trustees.
 - (b) Clerk.
 - (c) Assessor.
 - (d) Treasurer.
 - (e) Justice of Peace (May be two).
 - (1) Jurisdiction.
 - (f) Street Commissioner.
 - (g) Marshal.

THE CITY.

- A. Classes.
 - (1) First Class.
 - (2) Second Class.
- B. Under Council.
 - (1) Council.
 - (a) How elected.
 - (b) Powers and duties.
 - (2) Ordinances.
 - (3) Initiative and referendum.
 - (4) Officers.

Elective.

- (a) Mayor.
- (b) Treasurer.
- (c) Police Justice.
- (d) Justice of Peace.

Appointive.

- (e) Auditor.
 - (f) Attorney.
 - (g) Engineer.
 - (h) Assessor.
 - (i) Inspectors.
- (5) Police Department.
- (6) Fire Department.
- C. Commission Cities.
 - (1) Commissioners' Theory.
 - (2) Term of Office.
 - (3) Recall (See also p. 214).
 - (4) Election of Commissioners.
 - (a) Mayor.
 - (b) Police and Fire
 - (c) Street and Public Property.
 - (d) Water and Sewer.
 - (e) Finance and Revenue.

THE COUNTY.

- (1) Relation to the State.
- (2) Organization.
 - (a) How.
 - (b) Subdivisions.
- (3) Unorganized Counties.
 - (a) How Governed.
- (4) Officers.
 - (a) Commissioners.
 - (1) Number.
 - (2) Election.
 - (3) Districts.
 - (b) Auditor.
 - (c) Treasurer.
 - (d) Register of Deeds.
 - (e) Clerk of Courts.
 - (f) Sheriff.
 - (g) Superintendent of Schools.
 - (h) State's Attorney.
 - (i) Surveyor.
 - (j) Constables.
 - (k) Justice of the Peace.
 - (l) Assessor.
 - (m) Official Duties.
 - (n) Bond, Oath, and Compensation of each.
- (5) Courts.
 - (a) Judges.
 - (1) Election.
 - (2) Vacancy.
 - (b) Jurisdiction.
 - (1) Probate.
 - (2) Juvenile.
 - (3) Criminal and Civil.
- (6) County Board of Education.
 - (a) Purpose.
 - (b) Meeting.
- (7) County Farm.
 - (a) Purpose.
 - (b) Supervision.
- (8) What does the county do with its insane persons.
- (9) Study the Good Roads Movements. What is your county doing?
- (10) Have pupils draw a map of the county, showing subdivision and road system.
- (11) Pupils should be encouraged to visit court when in session.
- (12) The courthouse should be visited and in this way the work of the various officers emphasized.



An Interior View in Hall of the State Capitol.

CHAPTER IV

THE MAKING OF LAWS

Introduction

Early Settlements. The first permanent settlement in what is now South Dakota* was made by Joseph La Frambois who built a trading post near the mouth of the Teton, or Bad, river in 1817. This was near the present site of Fort Pierre. The first settlers who came to establish homes came to Sioux Falls, Flandreau and other places east of the Big Sioux river in 1857. These settlements were abandoned for a few years during the time of the Indian troubles in the Civil War. The first permanent settlements of families were made in 1859 at Yankton, Vermillion, Elk Point and in the vicinity of these places. Schools and churches were established and there was a rapid increase in population. The period from 1876 to 1885 is known as the "Dakota Boom" when railroads were extended over the state, cities and towns "sprang up as by magic" and the population increased five fold.

Dakota Territory. Dakota territory was created March 2, 1861, by an act of congress. William Jayne was the first territorial governor. Yankton was the capital until 1883 when it was removed to Bismarck. In

* The word Dakota (pronounced dah-ko'tah) is the name which the seven allied Indian tribes who formerly inhabited this region applied to themselves. These tribes were banded together into an alliance, or, using the term in a somewhat loose way, a republic. For a long time their chiefs and leaders held regular councils at the beautiful Armadale grove (Spink county). The root word of "Dakota" is "koda" ("ko'a" in the western Dakota pronunciation), meaning "friend." The word "Dakota" literally means an alliance of friends, or, as some prefer to translate it, "a republic of friends." The Dakotas are also called Sioux, but as this word signifies "enemy" they naturally prefer the name with a most noble significance. (See "South Dakota A Republic of Friends," by the author, published by the Capital Supply Company, Pierre.)

that year a convention was held at Sioux Falls which framed or prepared a constitution for the southern half of the territory. This was adopted by the voters in this region but congress refused to accept it and to admit South Dakota as a state. Another constitutional convention was held at Sioux Falls in 1885. Another constitution was framed and the people adopted it and elected state officers. Again congress refused to approve the constitution and admit South Dakota as a state. Of course the officers who were elected had no authority and made no attempt to carry on the government.

At length, in 1889, congress provided for the admission of South Dakota as a state. (The same law also enabled North Dakota, Montana, and Washington to become states.) A constitutional convention was held at Sioux Falls. The constitution of 1885 was changed in some particulars and again adopted and a full set of state officers* was elected. On November 2, 1889, South Dakota was formally admitted to the Union. Pierre was made the temporary capital and later the permanent capital. The first state legislature met in January, 1890, the second in 1891, and succeeding legislatures have met regularly every odd numbered year since then.

Three Departments of State Government. Each of the states of the Union has its written constitution, and this provides for (1) a law-making department, called the state legislature in most states, (2) a law-enforcing department, the governor being the principal executive officer, and (3) a law-applying department in the courts of the state.

The constitution of South Dakota provides for two methods of securing laws, (1) by the legislature and (2) by the initiative and referendum. Ordinarily the legislature passes all of our laws, so let us study that first.

* For a complete list of territorial and state officers see page 215.

The State Legislature. The legislature consists of two bodies of men, the senate and the house of representatives. Every two years the legislature meets at the capitol building at Pierre. Their places of meeting are two large and beautiful rooms called the "senate chamber" and the "hall of representatives." The governor may call special sessions of the legislature whenever necessary. Regular sessions begin at noon on the Tuesday following the first Monday in January of odd-numbered years (1909, 1911, etc.).

The Senate. The number of senators cannot be less than 25 nor more than 45 (see state constitution, Article III, section 2). Since 1899 the number has been 45 and it is not likely that it will be made less.

The House of Representatives. The number of representatives cannot be less than 75 nor more than 135. The number at the meeting of the legislature in 1911 was 104. Since then the number has been 103.

Legislative Districts. At the first regular session after a state or federal census is taken the legislature must divide the state into senatorial districts, decide what counties shall be in each district and how many senators may be elected by the voters in each district. The state census was taken in 1915. In 1917 the legislature provided that the state senate should consist of forty-five senators to be elected from forty-two senatorial districts as follows (the number of the district is given, the county or counties in the district and in parenthesis the number of senators elected in it):

1. Union (1). 2. Clay (1). 3. Yankton (1). 4. Bon Homme (1). 5. Lincoln (1). 6. Turner (1). 7. Hutchinson (1). 8. Charles Mix (1). 9. Aurora and Douglas (1). 10. Minnehaha (2). 11. Hanson and McCook (1). 12. Miner and Sanborn (1). 13. Davison (1). 14. Harding and Perkins (1). 15. Brule, Buffalo and Jerauld (1). 16. Gregory (1). 17. Moody (1). 18. Lake (1). 19. Brookings (1). 20. Kingsbury (1). 21. Beadle (1). 22. Hand

and Hyde (1). 23. Hughes and Sully (1). 24. Stanley, Jackson, Haakon (1). 25. Lyman and Jones (1). 26. Tripp, Bennett, Mellette (1). 27. Hamlin and Deuel (1). 28. Codington (1). 29. Clark (1). 30. Spink (1). 31. Grant (1). 32. Roberts (1). 33. Marshall (1). 34. Day (1). 35. Brown (2). 36. Dewey, Faulk and Potter (1). 37. Corson, Edmunds and Walworth (1). 38. Campbell and McPherson (1). 39. Butte and Lawrence (2). 40. Pennington (1). 41. Meade and Ziebach (1). 42. Custer and Fall River (1).

The legislature of 1917 also provided that the house of representatives should consist of 103 members, to be elected from sixty-one districts as follows:

1. Union (2). 2. Clay (1). 3. Yankton (2). 4. Bon Homme (2). 5. Lincoln (2). 6. Turner (3). 7. Hutchinson (2). 8. Douglas (1). 9. Charles Mix (3). 10. Minnehaha (7). 11. McCook (2). 12. Hanson (1). 13. Davison (2). 14. Sanborn (1). 15. Aurora (1). 16. Brule (1). 17. Miner (1). 18. Gregory (2). 19. Tripp (2). 20. Lake (2). 21. Moody (1). 22. Brookings (3). 23. Kingsbury (2). 24. Beadle (3). 25. Hand (1). 26. Hughes (1). 27. Deuel (1). 28. Hamlin (1). 29. Codington (3). 30. Clark (2). 31. Spink (3). 32. Grant (2). 33. Roberts (3). 34. Day (3). 35. Marshall (1). 36. Brown (4). 37. Faulk (1). 38. Potter (1). 39. Edmunds (1). 40. Walworth (1). 41. Campbell (1). 42. McPherson (1). 43. Fall River (1). 44. Custer (1). 45. Pennington (2). 46. Lawrence (4). 47. Meade (1). 48. Butte (1). 49. Hyde (1). 50. Sully (1). 51. Perkins (1). 52. Corson (1). 53. Harding (1). 54. Stanley and Haakon (1). 55. Lyman (1). 56. Dewey and Ziebach (1). 57. Mellette and Bennett (1). 58. Jerauld and Buffalo (1). 59. Deuel and Hamlin (1). 60. Perkins and Meade (1). 61. Jones and Jackson (1).

In 1920 the United States census will be taken. The next regular meeting of the legislature after this will be in 1921. A new districting of the state will have to be made then by the legislature for the electing of senators and representatives in the fall of 1922. This districting of the state from time to time is necessary because the population of different portions of the state changes somewhat and the number of senators and representatives from any part of the state depends upon the population. One of the purposes of taking the census is to make a fair division into districts and a just apportionment of senators and representatives. The United States takes a census of the entire country every year divisible by ten so that representatives in congress may be apportioned among the states according to population. Five years later the state takes a census.

Qualifications of Members. To be a senator or representative one must (1) be a citizen of the United States, (2) be a voter in the district from which he is chosen, (3) be twenty-five years old or more, (4) be a resident of the state for two years before his election, (5) never

have been convicted of bribery or other infamous crime or failed to account for public money trusted to him, and (6) not hold a lucrative office under the state or the United States or any foreign government (appointments in the militia, the offices of notary public, justice of the peace and postmasters whose compensation does not exceed \$300 each year are excepted and such persons may be elected).

Terms and Vacancies. The term of senator and representative is two years. They are elected on the Tuesday after the first Monday in November of every even-numbered year (1910, 1912, etc.). A vacancy may be caused by death, resignation, removal from the state or expulsion from the senate or from the house of representatives by the members thereof. In case of a vacancy the governor may call a special election in the district where the vacancy occurs.

SALARY. The salary of a member is five dollars for each day's attendance and ten cents for each mile necessarily traveled in going to Pierre and returning again. The latter is called mileage.

Sessions. The regular sessions cannot exceed sixty days excepting in cases of impeachment.

Oath. The constitution prescribes a solemn oath which each member takes. The oath is usually administered by one of the judges of the state supreme court to the presiding officer, and he administers it to the others. Read carefully this oath (see Article III, Section 8).

Contests. "Each house shall be the judge of the election returns and qualifications of its own members." This means that in case a dispute arises as to who is elected in any district, the matter is finally settled by the house of representatives or the senate, as the case may be. A committee is appointed to investigate and report, and then, after debate, the question as to who is



Senate, Session 1911.



House of Representatives, Session 1911.

entitled to the "contested seat" is voted upon. If it is claimed that some one elected to either house does not possess the six necessary qualifications, this matter is investigated and decided in a similar manner.

Quorum. By a quorum of any body or group is meant a sufficient number to act for the body or group. In a literary society it is often provided that if there be a certain number of members present at a meeting, say ten, these may carry on the society's business, and if there be less than that number no business can be transacted. In that case, ten members would constitute a quorum. In nearly all governmental bodies, such as a board of county commissioners, a city council, or on : of the houses of the legislature or of Congress, a majority (that is, over one-half) constitutes a quorum. If a less number be present, no business can be transacted excepting to adjourn for one day or send for absent members.

Presiding Officer of the Senate. The presiding officer of the senate is the lieutenant governor, elected for two years by the people of the state.

"The lieutenant governor of the state shall be president of the senate. He may vote only when the senate is equally divided. The senate shall elect a president *pro tempore* for the session, who shall possess all the powers and prerogatives of the president of the senate in the absence of the lieutenant governor."

"When any member is about to speak or deliver any matter to the senate, he shall arise from his seat and address himself to 'Mr. President,' and shall confine himself to the question under debate and avoid personalities."—Rules of the Senate.

To "avoid personalities" the members of both houses when making speeches refer to one another as "the gentleman from _____ county," "the senator who has just spoken," or in some other way avoid using his name wherever possible.

"Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this constitution."—Art. III, Sec. 8, Const.

Sometimes legislatures appoint more officers and employes than are really needed and to prevent this the leg-

islature passed a law in 1909 providing just what officers and employes should be chosen by each house. A portion of the law is as follows:

"The elective officers of the senate other than the president *pro tempore*, shall be: One secretary, one first assistant secretary, one second assistant secretary, one bill clerk, one trained proof reader, who shall be clerk of the committee on senate journals, one chief of the enrolling and engrossing force, who shall be an expert typewriter. one chaplain, one sergeant-at-arms, one postmaster, three pages and one messenger, who shall have charge of the printed bills, and who shall also assist the postmaster and sergeant-at-arms when necessary. The compensation of such officers shall be fixed by the senate, but all of the remaining employes of the senate shall be appointed by the president of the senate as herein provided."

The *secretary* has many important duties. He receives all bills (proposed laws) introduced by senators or passed by the house of representatives and sent to the senate. He reads them aloud to the senate, calls the roll and records the votes of members and attests the signature of the president of the senate to each bill or resolution which passes the senate.

The *bill clerk* records what action is taken on each bill or resolution. The *proof reader* is of special value in seeing that spelling, punctuation and wording is correct in the legislative proceedings. The *chief of the enrolling and engrossing force* has charge of the copying of all the bills and resolutions. Before a bill has passed one house it is "engrossed" by being carefully typewritten. After it passes the other house it is "enrolled" by being again typewritten and made ready for the signature of the governor. A carbon copy is made to be sent to the printer who publishes the laws, the original being filed with the secretary of state.

The *chaplain* is a minister who offers prayer at the opening of each session. The *sergeant-at-arms* preserves order. The *postmaster* conducts a postoffice at the capitol during the session for the convenience of the mem-

bers, being sworn in as a regular United States postmaster. *Pages* are bright boys who run on errands for the members.

Officers of the House of Representatives. The presiding officer of this body is called the "Speaker," an old English term, which we have adopted from the house of commons of parliament. He was called the speaker because he always spoke for the king. The speaker of the house of representatives is elected by the house from its own members. He is always addressed as "Mr. Speaker." When he is absent the member who is presiding is called "Mr. Chairman."

The house of representatives has other officers almost exactly like those of the senate, the principal exception being that the one who records the proceedings in the house journal is called *chief clerk* instead of secretary.

Rules. A few selections are here made from rules usually adopted by the senate and the house. These are not the most important rules, but are selected to show how certain things are done. Each house adopts its own rules and these are changed somewhat from time to time.

RULES OF THE SENATE.

"The senate shall keep a journal of its proceedings, which shall be printed daily in pamphlet form and laid on the desks of senators and officers the following morning."

"The senate may punish its members for disorderly behavior and, with the concurrence of two-thirds of all the members elected, expel a member."

"Any five senators may make a call of the senate and require absent senators to be sent for."

"A bill may be referred to a committee without reading, but shall be read before being amended and may be amended in every particular on second reading. No amendment shall be in order at the third reading of a bill unless by unanimous consent."

"Every bill shall be read three separate times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third reading shall be at length."

RULES OF THE HOUSE OF REPRESENTATIVES.

"Any thirteen members of the house of representatives may order a call of the house and cause absent members to be sent for."

"The speaker shall rise to put the question (to a vote), but may state it sitting and shall put all questions in the form, to-wit:

"'As many as are in favor say aye,' and after the affirmative vote is expressed, 'As many as are opposed say no.' If he doubts (which vote is the larger), or a division is called for by two or more members, the house shall divide: those in the affirmative of the question shall first rise from their seats and remain standing until counted, and then those in the negative in like manner, and the speaker shall announce the vote and declare the result."

"The yeas and nays (roll-call, the members voting yea or nay as their names are called) shall not be ordered unless demanded by three members, except upon the final passage of bills, or joint resolutions, *in which case the yeas and nays shall be had without demand.*"

These last two rules give the three methods of voting in use in both houses: (1) Viva voce (Lat. *viva*, by the living; *voce*, voice) or *ayes and noes*; (2) rising vote, or *division*; and (3) roll call or *yeas and nays*.

Joint Rules. Certain rules are adopted by both houses for the regulation of those things which require co-operation. Some of them, as usually adopted, are as follows:

"Communications between the senate and house of representatives shall be by message, which shall be signed by the secretary (of the senate) or chief clerk (of the house), respectively, and taken by him to the house to which it is addressed, and after being announced by the sergeant-at-arms and recognized by the presiding officer, shall be respectfully communicated by title only."

Organization of the Legislature. When the members elected to the state legislature meet at the capitol on the Tuesday after the first Monday in January, the senators meet in the senate chamber and are called to order by the lieutenant governor. After prayer, the list of those elected is read, the senators responding as their names are called. If a quorum (a majority) is present, the oath of office is taken by each member and the senate proceeds to elect officers. Then notice is sent to the house of representatives and to the governor that the senate has organized and is ready to meet with the house to listen to the message of the governor. The house of representatives organizes in the same manner, the secre-

tary of state or the chief clerk of the last house of representatives presides until a speaker has been elected. When both houses have organized, the senators pass to the hall of representatives and meet with them to listen to the governor's message.

Governor's Message. After the houses have assembled in the hall of representatives the governor and other state officers and the judges of the state supreme court pass in. The governor reads his message, reviewing the events of his two years' term and suggesting important needs of the state. If a change has been made in governors, the newly-elected one takes the oath of office and delivers an address to the legislature.

Committees. The rules of each house provide for many committees to consider such matters as education, agriculture, railroads, appropriations, temperance, public health, rules, engrossed and enrolled bills, etc. All bills or resolutions are referred to the proper committees.

It is the custom to have the lieutenant governor appoint all committees of the senate. The speaker of the house of representatives appoints all of the committees of that body. Each committee has frequent meetings and whatever it decides as to what should be done with a bill given to it is usually accepted by the house, to which it reports.

The "*committee of the whole*" is the entire house acting as a committee. The presiding officer calls some member to take the chair and there is a general discussion. No action is then taken on any bill excepting to "rise and report." When the committee of the whole "rises," that is, ceases to act as a committee, the one who was chairman reports its conclusions to the regular presiding officer and a vote is taken on this report. Naturally if the entire house, acting as a committee, agrees to pass a bill, when the same men act as a legislative body they will pass the bill as agreed upon. The purpose of "resolving into a committee of the whole house" is to have an informal discussion, of which no record is kept before binding action is taken.

CONFERENCE COMMITTEE. "In every case of disagreement

between the two houses, if either house requests a conference and appoints a committee for that purpose, the other house shall appoint a committee to confer therewith upon the subject of their disagreement."

ENROLLMENT COMMITTEE. "After a bill has passed both houses it shall be enrolled and examined by a committee of two members from the senate and three members from the house of representatives, who shall compare it with the engrossed bills as passed by both houses."

"Each enrolled bill so reported (by this committee) shall then be signed in each house, first by the speaker and chief clerk of the house of representatives, and then by the president and secretary of the senate."

"The joint committee shall present all bills so signed to the governor for his approval, and report to each house the day and hour of such presentation to the governor, which time shall be carefully noted in the journal of each house."

"When a bill or resolution, which shall have passed one house, is rejected by the other, information thereof shall be given to the house in which the same shall have passed."

"While the two houses are acting together upon elections or any other matter, the president of the senate shall preside. A call of the members of either house may be had in joint session by order of the house in which the call is desired."

SIFTING COMMITTEE. Bills often accumulate toward the end of a session and a "sifting" committee is appointed to select the most important ones for consideration.

SPECIAL COMMITTEES. Occasionally a special committee is appointed to consider some matter or to do some specified thing. Just before a final vote on a bill amendments are sometimes made by having a bill "committed to a committee of one with instructions to amend as follows." The committee of one immediately reports back the amendment and the bill is ready to be voted upon.

How a Bill Becomes a Law. A bill is a proposed law or amendment to a law. A senator may introduce any bill (excepting a bill of impeachment) in the senate and a member of the house of representatives may introduce any bill in that body. The writing of a proposed law is called "framing a bill," and may be done by any person.

Form of a Bill. The form in which a bill is written is shown in the one which is reproduced here. The bill must contain (a) the name of the senator or representative who introduces it; (b) a title, "A bill for an act, etc."; (c) the enacting clause, "Be it enacted by the legislature of the state of South Dakota"; and (d) the proposed law.

HOUSE BILL No. 55

Introduced by Mr. Dahlthorp, of Brookings.

BILL

For An Act Entitled, An Act to Amend Section 147 of Chapter 135, Session Laws of 1907, as Amended by Chapter 150 of the Session Laws of 1909, and as Again Amended by Chapter 137, Session Laws of 1911, Relating to Tuition for Eighth Grade Graduates.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1.

1 That Section 147 of Chapter 135 of the Session Laws of
2 1907 be and the same is hereby amended to read as follows:

3 Section 147. Tuition for Eighth Grade Graduates.) Any
4 pupil who shall successfully complete the work of the eighth
5 grade as established in the state course of study and who shall
6 hold a common school diploma granted by the county superin-
7 tendent is privileged to continue his school work up to and in-
8 cluding the twelfth grade by attending any graded school (high
9 school or normal school), in the state furnishing a higher course
10 of study, and not to exceed three and one half dollars per
11 month of the tuition charge therefor shall be paid by the
12 board of his home district from the general fund thereof, if
13 his home district does not provide instruction in such higher
14 grades, and any tuition charges in excess of said three and one
15 half dollars per month, which in addition thereto shall not ex-
16 ceed the actual per capita cost per month of schooling a student
17 in such graded school, shall be paid by the student or his par-
18 ent or guardian.

The Usual Steps. The following are the usual steps by which a bill becomes a law:

1. A bill is introduced by a member, who announces the fact at the time set aside each day for the introduction of bills.

2. The bill is given to the chief clerk of the house, or, if in the senate, to the secretary. It is then read in full. (Sometimes also read a second time, by title only.)

3. On the next day, or a later one, the bill is again read, this time by title only unless a full reading is demanded. (See the senate rule.)

4. It is then referred to the appropriate committee.

5. After the committee has considered the bill it is reported back, usually with the recommendation that it "do pass", or that it "do not pass."

6. It is engrossed for the third reading, amendments being included.

7. It is read a third time in full.

8. It is debated. The roll is called and the votes (yea or nay) are recorded.

9. To pass it must receive the favorable vote of a majority of the members elected to the house, unless it provides for (a) special appropriations or (b) has an emergency clause providing that the law shall go into effect immediately after its passage and approval. In these two cases the bill must receive a two-thirds vote.

10. The engrossed bill is then sent to the other house.

11. The other house proceeds in much the same manner as in the house where the bill originated.

12. If it passes unchanged, it is enrolled by rewriting it with suitable changes in the heading.

13. The joint committee on enrolled bills presents the bill to the governor for his signature.

14. The bill becomes a law (a) if the governor signs it; (b) if he fails to sign it or disapprove it within three days (he is given ten days at the close of the session): (c) or if he vetoes it by returning it to the house where it originated, with his objections, providing it passes both houses again by a two-thirds vote. If the legislature has adjourned his veto is final if he files the bill with his objections in the office of the secretary of state.

Appropriations. When the legislature meets there are always great demands made upon it for the appropriation of money. The rapidly growing educational institutions supported by the state are likely to need new buildings and equipment and more funds with which to carry on their work. The charitable and penal institutions and the various other departments also have many pressing needs to be met. The legislature has great difficulty in deciding just what appropriations should be made. The committees on appropriations are charged with the important duty of examining into the various needs and reporting a long list of recommendations in the form of a "general appropriation bill." Special appropriation bills are introduced by various members and before the session closes considerable confusion prevails as to the probable financial condition of the state during the next two years. The committees on appropriations are usually made up of members from counties not having a state institution. While they give a great deal of time during the session to this matter they are expected to give due consideration to all other subjects of legislation as well. When we remember that the legislature is in session only two months it is easy to see that a systematic planning of the probable receipts and expenditures of the state covering a period of two years becomes an exceedingly difficult matter.

State Budget Board. To make the matter of anticipating the financial needs of the state more systematic, the legislature of 1917 provided for a board to meet about a month before the legislature convenes and make out a carefully planned report on the financial needs of the various institutions and departments and the probable income of the state. Such a financial plan is called a "budget". The state budget board consists of the governor elect, the chairmen of the appropriation committees of the preceding legislature, the state auditor, and the chairman of the state tax commission. The governor elect is chairman of the board.

Powers Denied the Legislature. There are a number of powers which are denied the legislature. The legislature may not pass a law which provides that the county seat of some county is to be changed. Such laws must be general—that is, must provide how any county may change the county seat. This is true of several other matters named in Article III, Section 23, of the constitution.

An *ex post facto* law may not be passed by the legislature. This is a law which would punish a person for doing something which was not a crime at that time or which would increase the punishment of a crime already committed. It is not a crime at present for a woman to wear the body of a song bird on her hat. If the legislature were to make this a crime and make the law apply to those who wore them when it was not against the law, this would be an *ex post facto* law (*ex*, from; *post*, after; *facto*, the deed) and would be unconstitutional.

"No person shall be attainted of treason or felony by the legislature." It is not the proper work of the legislature to try persons who are accused of crime and punish them. This is the work of the courts. See "treason" and "felony" in the Glossary.

"The legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense or for any purpose whatever." All forms of lotteries, betting, raffling, selling or buying "chances" on a prize, playing games for money or a prize are classed as gambling and are unlawful.

Other powers denied the legislature are found in the state constitution, Art. III, sections 24, 26; VI, 3, 4, 14, 18; VIII, 16; XII, 3; XIII, 1, 2; XVII, 9, 10.

Impeachment. The constitution provides that state officers and judges of the supreme and circuit courts may be removed from office by the legislature through an impeachment process. An impeachment is a resolution passed by the house of representatives accusing some state officer or judge of a crime or misconduct. After the officer has been impeached (accused) by the house of representatives, he is tried by the senate. If the governor or lieutenant governor is impeached, the presiding judge of the supreme court presides over the senate during the trial. To find the accused officer guilty it requires a two-thirds vote of all of the senators elected. After an officer has been impeached by the house of representatives he cannot exercise the duties of his office until he is acquitted by the senate. If he is found guilty by the senate he may be removed from office and disqualified from ever again holding any office under the state. While the senate cannot inflict any further punishment, the accused may be re-arrested and tried in the courts just the same as though no impeachment process had begun.

To Amend the Constitution. The legislature may by joint resolution propose an amendment. At the next regular election the proposed amendment is adopted or rejected by the vote of the electors. Several amendments have been made in this way.

To Revise the Constitution. By a two-thirds vote the legislature may recommend to the electors that a convention be called to revise the constitution (this was done by the legislature of 1913). At the next regular election the electors adopt or reject this proposal (in 1914 the proposal was rejected). If adopted, the following legislature provides for a convention to revise the constitution.

Privileges of Members. The members of the legislature are given two privileges to protect them from interruption while attending to their duties and to permit them to speak freely while in session. (1) A member is free from arrest during a session of the legislature or while going to or from a session except for treason, felony (see glossary) or breach of the peace. (2) For anything said by a member in any speech or debate in either house he is not subject to arrest or punishment excepting by the house itself.

Law in Effect. Ordinarily a law does not go into effect until ninety days after the legislature adjourns. This is to give the people time to learn what laws have been passed. When it is very important that there be no delay and it is desired to have a law go into effect at once, if two-thirds of the members elected to each house are in favor of it and an emergency is declared to exist, the law goes into effect as soon as it is approved by the governor. A long delay may be brought about by the use of the referendum.

THE LOBBY. A lobby is a name commonly applied to a large waiting room in a public place such as a hotel or in a capitol building. The term has come to be applied to persons who frequent the waiting rooms in the capitol to interview legislators and influence them for or against certain laws. A lobbyist is one who visits the legislature with a view of influencing legislation in which he has a pecuniary interest. The law requires any person or corporation employing a lobbyist as well as the lobbyist himself to register as such with the secretary of state.

Direct Legislation

The Referendum. By direct legislation is meant that in which the people participate directly, instead of acting through persons who represent them in the legislature (or other legislative bodies such as a city council). The most common form of direct legislation is the referendum. The word is derived from two Latin words, *re*, back, and *ferre*, to carry; literally, "to carry back"—to the people. By the use of the referendum legislative measures are submitted to popular vote for approval or rejection. It has long been an established custom in this country to refer to a vote of the people such matters as the rejection or adoption of a state constitution or constitutional amendment, the question of the organization of a town, city, school district, the changing of a county seat, the issuing of bonds, liquor licenses, etc.

If a referendum petition, signed by five per cent or more of the electors of the state, is filed with the secretary of state before a law goes into effect, such law cannot be enforced until it is approved by a majority vote at the next general election. If a majority of those who vote on the law are in favor of it, the law goes into effect, otherwise it does not. By means of the referendum a good law may be kept from going into effect until the next general election, usually a year and a half after it is passed, if five per cent of the voters sign a referendum petition for it. As there are some laws which should not be delayed, the constitution provides that the referendum shall not be applied to "such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions."

The Initiative. As a means of direct legislation the referendum is said to be primarily negative or preventive.

The electors must accept or reject a proposal as it is presented to them. A logical complement of the referendum is the initiative. This word is from the Latin *initiare*, to begin; that is, it is the process whereby the people may begin or initiate legislation.

Suppose the legislature refuses to pass a law desired by the people. By means of this right of initiative, a petition containing the proposed law is prepared by any interested persons. When signed by five per cent of the electors it is filed with the secretary of state. He presents it to the legislature which is required to submit the proposed law to a vote of the people at the next general election. The initiative automatically carries with it the referendum. The right of referendum can exist without the power of initiative but the initiative can not exist* without its logical complement, the referendum. The enacting clause of all laws passed by the people by the use of the initiative is as follows: "Be it enacted by the people of South Dakota".

The referendum and initiative may be applied in a similar manner by electors in a city to actions of the city council or commission, both to prevent undesirable ordinances from going into effect and to secure desired legislation.

* Mandatory petitions are usually classed as instances of the initiative. For example a petition to incorporate a city. In certain cases, the petition is not followed by a vote but requires the act petitioned for to be done. Thus to divide a school district a petition signed by a majority of the electors compels a division without an election, that is, it is a case of initiative without a referendum. (Session Laws, 1917, Chap. 171.)

Another exception is found in the new constitution of Michigan. Here a conditional initiative exists in case of constitutional amendments. One may be proposed by the initiative but it is not submitted to a referendum unless the legislature favors it.

See "The Referendum, Initiative and Recall in America" by Oberholtzer, p. 368. A good survey of the use of the initiative and referendum in South Dakota is given on pp. 391-396.

THIRD MONTH

STATE GOVERNMENT OF SOUTH DAKOTA.

- (1) Brief History of Dakota Territory.
 - (a) How the Territory became a State.
 - (b) Date of Organization.
 - (c) Early Settlements.
- (2) Brief History of South Dakota.
 - (a) Date of Statehood.
 - (b) Leading men of the time.
 - (c) Location of the Capital.
- (3) Departments of Government.
 - A. Legislature.
 - (1) The House.
 - (2) The Senate.
 - (3) Membership.
 - (a) Qualifications.
 - (b) Number of Members; Salary.
 - (c) Districts.
 - (d) Elections.
 - (e) Oath.
 - (f) Apportionment.
 - (g) Quorum.
 - (h) Vacancies.
 - (i) Privileges.
 - (j) Prohibitions.
 - (4) Meetings.
 - (a) Time and Place.
 - (b) Length of Sessions.
 - (5) Who represents your County.
 - (a) In the House?
 - (b) In the Senate?
 - (6) Organizations.
 - (a) Officers.
 - (1) President of the Senate.
 - (a) Lieutenant Governor.
 - (2) Speaker of the House.
 - (a) Elected by the Members of the House.
 - (3) Sergeant-at-Arms.
 - (4) Chaplains.
 - (5) Postmaster.
 - (6) Enrolling Clerks.
 - (7) Messengers.
 - (8) Pages.
 - (b) Rules.
 - (c) Committees.

- (1) Standing.
 - (a) Number.
 - (b) Membership.
- (2) Conference.
- (3) Committee of the Whole.
- (4) Special.
- (5) Sifting.
- (7) Daily Routine.
 - (a) Journals.
 - (b) Restrictions.
 - (c) Sessions.
 - (d) Bills.
 - (1) Character.
 - (2) Introduction.
 - (3) Readings.
 - (4) From Bills to Laws.
- (8) Laws.
 - (a) When effective.
 - (b) Emergency.
- (9) Veto.
- (10) Initiative.
- (11) Referendum.
- (12) The Lobby.

CHAPTER V

THE EXECUTIVE DEPARTMENT

"Rulers are not a terror to good works, but to the evil."

Elective Officers

Governor. The governor is the principal executive officer of the state. South Dakota has always chosen for this high office men of noble qualities and pure lives, men who have been an honor and credit to this great state.

Term and Qualifications. The governor is elected by the voters of the state for a term of two years. He may be re-elected any number of times, but it is customary in this state not to elect the same person for more than two terms. To be governor one must be (1) a citizen of the United States, (2) an elector, (3) at least thirty years old, and (4) must have resided in the state two years next preceding his election. During the term for which he was elected governor he cannot hold any other office.

Powers and Duties. The powers and duties of the governor fall into the three departments of government, (a) legislative, (b) executive, and (c) judicial.

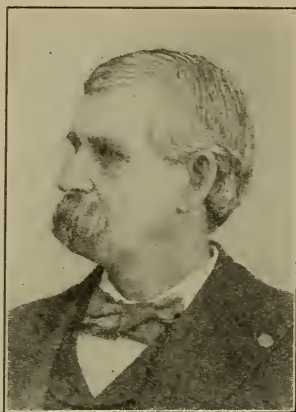
(a) **Legislative.** We have already noted in Chapter IV his four duties in connection with the making of laws: he may call special sessions of the legislature, he makes recommendations to the legislature, he approves or vetoes bills passed by the legislature. He is chairman of the state budget board and as such assists in recommending a list of appropriations.

(b) **Executive.** The governor's principal duties as the chief executive officer of the state are summarized in these two provisions of the law: "He shall supervise the

GOVERNORS OF SOUTH DAKOTA.



Arthur C. Mellette,
1889-1892.



Charles H. Sheldon.
1893-1896.

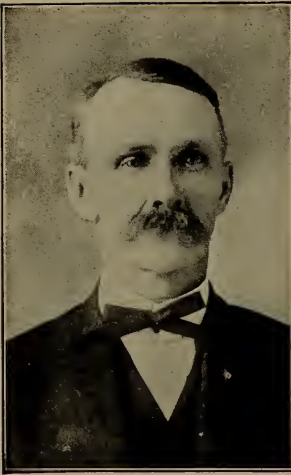


Andrew E. Lee.
1897-1900.



Charles N. Herreid.
1901-1904.

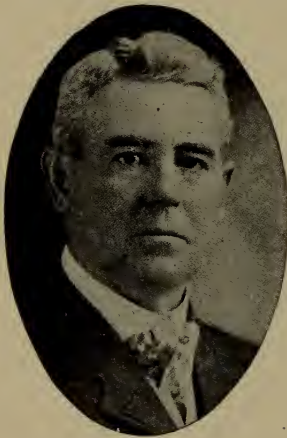
GOVERNORS—Continued.



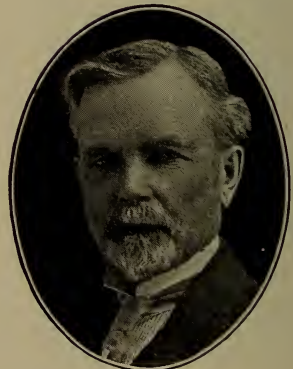
Samuel H. Elrod.
1905-1906.



Coe I. Crawford.
1907-1908.



Robert S. Vessey.
1909-1912.



Frank M. Byrne.
1913-1916.

official conduct of all executive and ministerial officers. He shall see that the laws of the state are faithfully and impartially executed."



PETER NORBECK
1917-

He is commander-in-chief of the state militia,* excepting when the president of the United States calls it into service, and he may call it out to preserve order and enforce law if it is necessary. There are many officers appointed by the governor, as we shall notice soon. He may appoint a United States senator if a vacancy occurs, but his appointment is valid only until the month following the next general election, at which time the people fill the va-

cancy. If a vacancy occurs in any office and the law does not make other provisions for filling the vacancy, the governor makes the appointment.

If a person within the state is accused of a crime committed in another state he can not be taken out of this state without the consent of our governor. If a person has fled from justice to this state from a foreign country, the governor then has nothing to do with the matter and the accused person can be surrendered to the country from which he has fled only by permission of the President of the United States. The process of getting authority to return a fugitive from justice and of making the return is called *extradition*.

The governor is a member of the state highway department, the state printing commission, the board of school and public lands, and of the board of canvassers of election. His salary is \$3,000 a year.

* The unorganized militia consists of all able-bodied male citizens who are residents of the state and are between the ages of eighteen and forty-five. The organized militia is known as the South Dakota national guard. The governor appoints an *adjutant general* who has active charge of the state guard, inspecting companies, supervising their drill, taking charge of their equipment, etc. His military rank is brigadier general. The assistant adjutant generals have the rank of colonel and the chief officer of each company has the rank of captain.

(c) **Judicial.** Only indirectly does the governor have judicial powers. He may remit fines and grant reprieves, commutations, and pardons (see glossary) for any persons who have been convicted of violating the laws of the state, providing the punishment be a fine of \$200 or less or imprisonment in the penitentiary for not more than two years. For the greater offenses he may grant pardons only upon the recommendation of the board of pardons, consisting of the presiding judge of the state supreme court, the secretary of state and the attorney general. (See Article IV, Section 5.)

Lieutenant Governor. The word lieutenant is from the French *lieu*, place and *tenant*, holding; literally "holding the place". He is elected so that in case of a vacancy in the office of governor by reason of death, removal by impeachment, or removal from the state, the people may have someone whom they have chosen to hold this high place. His qualifications must be the same as those of governor. His only duties as lieutenant governor are to preside in the senate during a session of the legislature.

Secretary of State. This officer has charge of all acts and resolutions passed by the legislature, the journals of the legislature, the enrolled copy of the constitution of the state, deeds to all property belonging to the state; and of the state seal. He affixes the seal to all certificates of appointment to state offices, certificates of election to any office which is filled by the voters of the entire state, to pardons and other public documents to which the signature of the governor is required, also to charters for corporations and other public documents issued from his office. He issues charters for corporations (excepting insurance companies) and has some supervision over them. He has charge of the capitol building and grounds.

Nominations of candidates for any office to be filled by all of the voters of the state are filed with the secretary of state, and he reports these names to the county auditors so that they may be printed on the ballots of each county. The results of such elections are reported to him by the county auditors. He is a member of the state board of canvassers of elections, which examines these returns and reports who is elected.

He is also a member of the board of pardons, and of the mark and brand committee. He has charge of the printing of the laws. As we have already noted, he presides over the house of representatives until it elects a speaker.

State Auditor. This officer has charge of all accounts of the state, of all money received by the state and of all paid out. If a person has money due him from the state he receives a warrant from the state auditor directing the state treasurer to pay him the proper amount. The auditor is a member of the state board of canvassers of elections.

State Treasurer. All of the funds of the state are entrusted to the care of this officer, who gives heavy bonds as a guarantee of safety. He pays out money belonging to the state upon warrants issued by the state auditor, or without the warrants when bonds or interest may be due. Once each month he and the state auditor compare their accounts to see that each has them correct.

Weights and Measures. The state treasurer keeps in his office standard measures which correspond with those of the United States. These measures are made of copper and consist of all sizes from a bushel to a gill. He also keeps standard measures of length, consisting of a surveyor's chain (33 feet), yard, foot, and inch, and standard weights from one hundred pounds down.

"A bushel of each of the articles enumerated in this section shall consist of the number of pounds avoirdupois respectively affixed to each, viz.:

Barley, 48 pounds.	Oats, 32 pounds.
Beans, 60 pounds.	Onions, 52 pounds.
Bran, 20 pounds.	Potatoes, Irish, 60 pounds.
Buckwheat, 42 pounds.	Potatoes, sweet, 46 pounds,
Beets, 60 pounds.	Peas, 60 pounds.
Broom corn seed, 30 pounds.	Rye, 56 pounds.
Corn, shelled, 56 pounds.	Salt, 80 pounds.
Corn in the ear, 70 pounds.	Turnips, 60 pounds.
Cloverseed, 60 pounds.	Timothy seed, 42 pounds.
Lime, 80 pounds.	Wheat, 60 pounds.
Coal, stone, 80 pounds.	Speltz, 45 pounds."
Flaxseed, 56 pounds.	

—Pol. Code.

Superintendent of Public Instruction. This officer is at the head of the educational system of the state. He has charge of the granting of nearly all certificates to teach. He prepares a list of educators from whom are selected the conductors of teachers' institutes. He calls meetings of county superintendents for the consideration of school problems, and with them adopts courses of study for the common schools of the state. All plans for public school buildings must be approved by him. Appeals may be made to the superintendent of public instruction from decisions of county superintendents. A large part of his time is spent in giving addresses at teachers' institutes and at meetings of teachers and school officers. He is a member of the state reading circle board.

Commissioner of School and Public Lands. As we noticed when studying Chapter II, the United States gave to South Dakota a great deal of land for the support of the schools, the erection of a capitol building and for other purposes. The officer of the state who has charge of the sale of these lands and their rental until sold is called the commissioner of school and public lands.

"The governor, commissioner of school and public lands, and state auditor shall constitute a board which

shall be termed the 'board of school and public lands.' " This board decides what school and other public land shall be leased and what shall be sold. The commissioner then has charge of the selling and leasing of the land. The lands are leased at a public auction conducted by the county auditor of the county in which the lands are located. No lease can extend for more than five years.

When any of the state lands are to be sold, an estimate is first made of their value. This is done by a "board of appraisal," consisting of the commissioner of school and public lands, the county auditor, and the county superintendent of schools of the county in which the lands are located. The lands are then advertised and sold by the commissioner, or agent appointed by him. The price must not be less than the estimated or appraised value. Each sale must be approved by the governor, after which a deed, called a "patent," is issued from the office of the commissioner, to which his seal is affixed.

The money received from the sale of the public school lands is a permanent fund which is loaned. The interest or income is distributed among the schools of the state by this officer; each public school gets its share according to the number of children of school age (between six and twenty-one) in the school district. The money obtained from the leasing of school lands is also thus apportioned.

State Forest Supervisor. The commissioner of school and public lands has many duties relative to timber on the state and public lands. In the Black Hills area there are some 80,000 acres of state forested land. The commissioner has power to appoint a forest supervisor to whom is delegated the commissioner's power in the administration of the state forest lands. The United States has a great forest reserve in the Black Hills area, with national foresters in charge. The state and national foresters are, *ex officio*, state deputy game wardens.

Attorney General. This is the official legal adviser of the governor, secretary of state, state auditor, state treasurer, state superintendent of public instruction and the state's attorneys of the various counties. His decision as to the meaning of the law is generally accepted until some trial is held in a court and another decision is made. He represents the state to protect it in any trial in which the state is interested. The attorney general examines bonds and deeds belonging to the state to see that they are legal, prepares forms for contracts and other legal papers for the state. He is a member of the state board of pardons.

His salary is limited by the constitution of the state to \$1,000 per year, altogether too small for so important an officer. It would be very much better, and probably less expensive to the state, if the attorney general were paid a good salary and required to devote his time exclusively to the state, he and his deputy giving up their private law practice.

In 1902 a contractor sued the state board of regents for damages, claiming he had lost money by a fire and that it was the fault of the regents that there was not sufficient insurance. The attorney general defended the board and it was proven that it was the contractor's own fault that there was not sufficient insurance. This case was tried in a United States court, as it was between a citizen of Minnesota and the state of South Dakota.

Railway Commissioners. A state board of three railway commissioners is elected by the voters of the state. The state is divided into three districts and one commissioner is elected from each district by a vote of the entire state. The term of office is six years, one being elected at each regular election in November of even numbered years. A member must not be in the employment of any railway company or have any financial interest in one or in an elevator. The principal business of the board is to see that the laws relating to railways and telephones are enforced. They visit all portions of the state to receive any complaints the people may wish to

make concerning transportation. They have some power over railway rates, the locating of warehouses, establishing stations, erecting crossings, etc. The work of the *scale and warehouse inspector* is connected with this department.

Appointive State Officers

The law provides for the appointment of many officers by the governor. Nearly all appointments must be approved by the state senate. If a vacancy occurs in an appointive office while the senate is not in session, the governor makes an appointment until the senate meets, when he informs the senate of his action and then the vacancy is filled by an appointment subject to the approval of the senate. The term is usually two years and in some cases bonds are required for the faithful accounting of money and the performance of duty.

State Sheriff. The several sheriffs and deputy sheriffs of the state constitute a "state constabulary" (con-stab'-u-la-ry) for the detection of criminals and preserving and enforcing law and order within the state. At the head of the state constabulary is the state sheriff.

The state sheriff is especially employed to enforce the prohibition law and is given many powers in that connection. He also gives special attention to the enforcement of all criminal laws of the state for the prevention of wrongs to children and dumb animals, and to juvenile court laws of the state that are designed for the protection, control and maintenance of delinquent, dependent, or neglected children. Persons having information of the violation of any of these laws should notify the state sheriff at Pierre. He is appointed by the governor and serves during the pleasure of the governor. His salary is \$3,000.

The Public Examiner. The public examiner must be a skilled accountant and an expert in the theory and practice of bookkeeping. His duty is to exercise a close supervision over the books and accounts of the state banks in order to know that they are working on a sound basis. The purpose of this officer is to render the banks safe places for the people to deposit their money. He formerly had much more work, but a large portion of it was given to the executive accountant. This action was taken by the legislature of 1911.

Executive Accountant. This officer examines the accounts of all state officers, boards and commissions at least once a year. Upon request of the governor he must examine any of their accounts at any time and also the accounts of any state educational, penal or charitable institution. Upon request of the county commissioners of any county, or the governor, the executive accountant must examine the accounts of any county officer.

Commissioner of Insurance. Insurance is a plan for distributing the losses which are caused by fire, wind, death, etc. When a house burns or when an industrious person dies there is a severe financial loss for some one. Each person who pays an insurance premium is helping to share some one's loss for long experience makes it possible to tell in advance just what it costs to carry each risk. The law provides many safeguards to protect those who have insurance and to encourage this work of providing for future danger of loss. The principal duties of the commissioner of insurance are to see that the laws of the state respecting insurance companies are faithfully observed. He is kept fully informed concerning the condition of each company doing business in the state and may start prosecutions if the laws are violated. Any insurance companies formed in this state receive their charters from him.

The law prescribes standard insurance policies, which must be used by all companies doing business in the state. In case of a total loss of a building by fire the full sum must be paid by the insurance company, but in case of partial loss by fire only the actual damage is paid. A policy cannot be transferred, or insured goods removed, without the consent of the company, and a person may not take out more fire insurance with another company without the consent of the company already insuring the property.

State Engineer. This official must be a technically qualified and experienced civil and hydraulic engineer. He has important duties in connection with many engineering problems. He has "general supervision of the waters of the state, and of the measurement, appropriation and distribution thereof." All plans for irrigation, bridges, and state buildings must be approved by him. He or his deputies supervise the construction of such projects. He is ex-officio secretary of the state highway department with the work of which he has important duties. He is appointed by the governor for four years at a salary of \$2,700.

State Veterinary Surgeon. He must be a graduate of a veterinary college course of at least three years and in addition have practiced his profession for that length of time. He is the executive officer of the live stock sanitary board, though not a member of the board. He enforces their rules and the state laws concerning the prevention of contagious and infectious diseases among domestic animals. Live stock having certain diseases is killed under his direction.

State Game Warden. This officer, together with the deputy wardens in the different counties, sees to the enforcement of the game laws.

State Mine Inspector. As the title implies this official makes examinations of mines to see that conditions are as safe as possible.

State Food and Drug Commissioner. This officer has the important duty of enforcing the laws relating to the adulteration of foods and drugs. Both the United States and the state have passed pure food and drug laws and each has its officers to enforce them. He is also state hotel inspector. His duties as such are to see that the laws relating to cleanliness and protection against fire are enforced in hotels. He is also "state building inspector," being charged with the inspection of theaters, schools, churches, hospitals and other buildings that accommodate one hundred persons.

"All doors of exit or entrance shall open outward and be hung to swing in such a manner as not to become an obstruction in a passage or corridor, and no such doors shall be closed and locked when the building is open to the public."—Laws of 1909.

Oil Inspection. The food and drug commissioner provides for the inspection of all illuminating oils.

The law provides that all cans or casks containing gasoline shall be painted red. Gasoline evaporates rapidly, and the gas thus formed burns and explodes very easily. Great care should be taken when filling cans with gasoline or cleaning clothes with it, and no fire or light should be in the same room or adjoining rooms while this is being done. It is dangerous to pour kerosene or gasoline on a fire.

Commissioner of Immigration. The legislature of 1911 provided for this officer to have charge of advertising the resources of the state.

State Dairy Expert. This officer is connected with the college of agriculture and mechanic arts at Brookings and has charge of the enforcement of the laws relating to dairy products. He causes inspection to be made of creameries, cheese factories and dairies.

Department of History. In 1901 the legislature created this department and provided for a state historical society. The secretary of this society is the state

librarian, who has charge of the many valuable books, documents and mementoes of state and national value in the state library and museum in the capitol building. The secretary of the society is also superintendent of the state census and is the state statistician, collecting statistics concerning births and deaths, crops and other matters of public interest. The biennial reports of the historical society are prepared by him and comprise a great deal of valuable material of historical interest. Mr. Doane Robinson has occupied this responsible position from the time it was established.

SALARIES OF STATE OFFICIALS. Excepting those given, the salaries of state officials are usually from \$1,500 to \$1,800 per year. Most of these were fixed in the constitution at a time when such a salary was sufficient. That sum of money will now buy only about one-half as much as it would then, so in reality the salaries have been decreasing to about one-half what they should be. At the same time the growth of the state has greatly increased the work and duties of all of the officers. It might be very much better if the legislature had power to fix these salaries, for then they could be changed as conditions change. To do this it will be necessary to amend the constitution.

Until recently in England members of parliament (corresponding to our congress) got no pay at all. It was thus impossible there for a poor man to become a member unless, as was once done, collections were taken among his friends to support the man while he was serving his country. Salaries should not be so large that men will be tempted to do improper things to get an office, neither should they be so small that an officer can scarcely make a living from his salary.

State Boards

Some matters are cared for by boards instead of by individuals. A board made up of officers elected for other purposes is said to be "*ex-officio*" (Lat. *ex*, out of—*officio*, the office). The board of school and public lands and the board of pardons are, as we have seen, of this kind. The presiding judge of the state supreme court is *ex-officio* a member of the board of pardons.

The State Tax Commission. This board or commission consists of three members, appointed by the governor for terms of six years. The commission has supervision over the administration of the tax laws and over boards of equalization and all officers who assess property for taxation.

The commission meets and assesses the value of the property of railroad, telephone, telegraph, and express companies within the state. The property is then taxed according to its value. This commission also goes over the reports of the assessment of property in the different counties and "equalizes" them. Thus, if lands are valued too high in one county as compared with their value in another, the board may lower the one or raise the other, or do both.

State Board of Canvassers of Elections. As we noticed when studying the duties of the secretary of state, county auditors send to this board a report of the votes cast for candidates for offices for which all voters of the state cast ballots—for governor, secretary of state, presidential electors, etc. The governor, presiding judge of the state supreme court, secretary of state and the state auditor examine these reports from the various counties and decide who are elected. If a member of this board is a candidate for office he does not help count the votes cast for that office.

Regents of Education. This board of five members is appointed for six years each and has control of the state higher educational institutions. The board has general supervision over these schools, selects teachers, adopts courses of study and has charge of all expenditures. The president and faculty of each school have immediate charge over its affairs, subject to the approval of the board. The state educational institutions (see Chapter II) are as follows:

State University, Vermillion.

State College of Agriculture and Mechanic Arts, Brookings.

State School of Mines, Rapid City.
Northern Normal and Industrial School, Aberdeen.
Three state normal schools, Madison, Spearfish and Springfield.

A member of this board may not be appointed from a county in which one of these institutions is located. This is for the purpose of preventing any of them from coming under the control of the locality in which it is located and to keep the schools, as they should be, *state* institutions. The board appoints a secretary who keeps records of their meetings and does accounting for them.

Board of Charities and Corrections. This board is similar in every way to the board of regents excepting that it has charge of the corrective institutions of the state. These are:

Penitentiary, Sioux Falls.
State Training School (a reform school), Plankinton.
Hospital for the Insane, Yankton.
State School and Home for the Feeble Minded, Redfield.
School for the Deaf, Sioux Falls.
School for the Blind, Gary.

A board of three women is appointed for two years, whose duty is to examine conditions at these institutions and the treatment of inmates and report to the governor. The examiners receive three dollars per day and their necessary expenses while visiting institutions.

Commissioners of the Soldiers' Home. This board consists of three members, each being appointed for six years, and has charge of the affairs of the state soldiers' home at Hot Springs. A national soldiers' sanitarium is maintained at Hot Springs by the United States.

State Board of Agriculture. This board consists of five members, appointed for two years each, and has charge of the state fair which is held each year at Huron.

State Board of Health. Five physicians, appointed by the governor for five years each, constitute this board. The board makes rules for the control of contagious and

infectious diseases and superintends the boards of health of counties, cities, and towns. The state health laboratory is at the state university at Vermillion, in charge of one of the professors of the college of medicine. Microscopical tests and chemical analyses are made there.

Mark and Brand Committee. Three stock raisers are appointed by the governor for two years and these, with the secretary of state, constitute this committee. All persons who adopt marks or brands for their live stock must send copies of them with a fee of two dollars and fifty cents to the secretary of state. The committee must approve the brand before it may lawfully be used.

Free Library Commission. The free libraries of the state consist of the supreme court library, the state library and the free public libraries of the several cities, towns, townships, and school districts, and free traveling libraries. The free library commission consists of the governor, the superintendent of public instruction, the state librarian, and two persons appointed by the governor for three years from persons nominated by the state library association and the state federation of women's clubs. This commission supervises the state library, selects lists of books from which county library boards may choose books, gives advice and assistance to communities desiring to establish libraries, sends out packages of books as traveling libraries, etc.

Teachers' Reading Circle Board. This board consists of the president of the state educational association, one county superintendent elected at a meeting of the county superintendents of the state, and the superintendent of public instruction. The board adopts books for the reading circle and has general charge of the work.

Boards of Examiners. A number of state boards are appointed for the examination of those who wish to practice medicine, dentistry, embalming, pharmacy, etc.

State Printing Commission. The governor, secretary of state and state treasurer constitute the board which has charge of all printing for the state. Contracts for printing and office supplies are let to the lowest bidder. The governor appoints some one who is well versed in printing as the *state printer* and he has supervision of the work under the direction of the board.

Live Stock Sanitary Board. This board consists of five members, who must be live stock men, appointed for five years each. It is the duty of the board to protect the health of domestic animals of the state and to employ the most efficient and practical means for preventing and eradicating contagious and infectious diseases among them. The professor of bacteriology and pathology of the state college of agriculture and mechanic arts at Brookings makes examinations of diseased animals, or portions of them, for the board. The board has power to quarantine any barns, other buildings or lots to prevent the spreading of diseases, or order the destruction of diseased animals. The state veterinary surgeon is the executive officer of the board.

"It shall be the duty of any person who discovers, suspects, or has reasons to believe, that any domestic animal or animals belonging to him or any in his charge, or that may come under his observation, belonging to other persons, is affected with or has been exposed to any contagious, infectious, epidemic or communicable disease, to immediately report such fact, belief or suspicion to the state live stock sanitary board or to a member or representative thereof."—Session Laws, 1909.

Board of Immigration. The governor, secretary of state, and the commissioner of school and public lands constitute this board. The governor is, *ex-officio*, its

chairman, and the commissioner of immigration is its executive officer and agent.

Board of Finance. This is another *ex-officio* board, consisting of the governor, secretary of state, state auditor, and public examiner. The principal duty of the board is to supervise the safe keeping of all state funds.

State Board of Education. This board has charge of vocational education in co-operation with the federal board for vocational education. Congress has appropriated large sums of money for (a) the payment of salaries of teachers, supervisors, or directors of agricultural subjects; (b) of trade, home economics, and industrial subjects; and (c) for preparing teachers, supervisors, and directors of the subjects just named. To receive any of the money appropriated by congress for these purposes, an equal sum must be furnished by the school taking advantage of the law. The state board of education consists of the state superintendent of public instruction, the president of the university of South Dakota, the president of the state college of agriculture and mechanic arts, and four persons appointed by the governor, two of whom must be members of the faculties of normal schools, one a city superintendent or principal, and one a county superintendent.

State Highway Department. The governor, the state engineer, and an experienced road builder appointed by the governor constitute this department, which has charge of the construction of public roads and bridges for which state appropriations are made, or federal appropriations used together with state appropriations. The federal government has appropriated large sums for this purpose but these are available within a state only when the state appropriates money also. A large sum is thus made available for good roads in this state.

FOURTH MONTH

B. Executive Department.

(1) Elective Officers.

A. Governor.

(1) Legislative Powers.

(a) Recommends to Legislature.

(b) Approves Bills.

(c) Vetoes Bills.

(2) Judicial Powers.

(a) Grants Reprieves.

(b) Grants Pardons.

(c) Issues Requisitions and Grants Extraditions.

(3) Executive Powers.

(a) Enforce Laws.

(4) Appointive Powers.

(5) Military Powers.

(6) Restrictions on.

(7) Qualifications.

B. Lieutenant Governor.

C. Secretary of State.

D. Auditor.

E. Treasurer.

F. Superintendent of Public Instruction.

G. Attorney General.

H. Commissioner of School and Public Land.

(1) Duties of Each.

(2) Salaries of Each.

(3) Terms of Each.

I. Railroad Commissioners.

(1) Number.

(2) Duties and Powers.

(3) Terms.

(4) Salaries.

(2) Appointive Officers, Minimum Course.

(1) Public Examiner.

(2) State Game Warden.

(3) Food and Drug Commissioner.

(4) State Dairy Expert.

(5) Mine Examiner.

(6) State Historian.

(3) Appointive Officers, Supplementary Course.

(1) Executive Accountant.

(2) Commissioner of Insurance.

(3) Oil Inspector.

(4) State Veterinary.

(5) State Engineer of Irrigation.

(6) State Hotel Inspector.

(7) Commissioner of Immigration.

- (4) State Boards (Appointive), Minimum Course.
 - (1) Tax Commission.
 - (2) Regents of Education.
 - (3) Charities and Corrections.
 - (4) Live Stock Sanitary Board.
 - (5) Mark and Brand.

SUPPLEMENTARY COURSE.

- (1) Teacher's Reading Circle.
- (2) Examiners.
- (3) Printing Commissioners.
- (4) Immigration.
- (5) Finance.
- (6) Pardons.
- (7) Canvassers of Election.
- (8) Commissioners of Soldiers' Home.
- (9) Agriculture.
- (10) Health.

CHAPTER VI

THE JUDICIAL DEPARTMENT

Interpreting and Applying Law. We have studied how laws are passed and how they are enforced by the state, county, township, town and city. In the enforcement of law there must be some method of deciding how the law applies in a given instance, or whether a person who is accused of violating the law is guilty or not. Courts are established to interpret the law and apply it in cases that arise. The United States maintains a system of courts to try cases which involve the federal constitution and laws (see Chapter IX), and the state maintains courts to try cases which involve state laws.

The courts provided for by law in South Dakota are (a) the state supreme court, (b) circuit courts, (c) county courts, (d) municipal courts, and (e) courts of justices of the peace.

State Supreme Court

Supreme Judges. The supreme court is the highest court in the state. It consists of five judges and holds all of its sessions at Pierre. Until 1909 there were only three judges. The judges are chosen from districts by a vote of the entire state, and their term is six years. While they necessarily live at Pierre, their legal residence is in the districts from which they were originally chosen. They must be licensed to practice law in the state, thirty years old, citizens of the United States, residents of the state two years, and residents of the districts from which they are chosen. Vacancies are filled by ap-

pointment by the governor. At least three of the judges hear each case, and at least three must unite in a decision. They adopt their own rules and elect one of their members presiding judge. The presiding judge corresponds to chief justice (see Index), as he is called in the supreme court of the United States and of many states.

Officers. The judges appoint a *clerk* to record all decisions and proceedings; a *reporter*, who must be a lawyer, to publish the opinions and authorities filed by lawyers in cases before the court and the decisions of the court. These decisions are bound and preserved as "South Dakota Reports," and are quoted and referred to as authorities all over the United States; a *marshal*, to serve papers and perform such duties as the sheriff or constable does in lower courts; a *librarian* has charge of the law library; and *stenographers* write out testimony, decisions, etc.

Jurisdiction. By the jurisdiction of a court is meant the power of the court to try cases. There are two principal kinds of jurisdiction—original and appellate. By original jurisdiction of a court is meant its power to try cases beginning or originating there. Appellate jurisdiction is the power of a court to try cases that have been appealed to it from lower courts.

Original Jurisdiction. Very few cases ever originate in the supreme court. Nearly all of its work is in hearing cases that have been tried in a lower court to determine whether the trial was legally conducted. Certain cases may begin in this court, usually those involving what are called remedial writs, such as injunctions, writs of mandamus, habeas corpus, certiorari (see "Writs" in Glossary for definitions of these terms). The circuit court, however, usually issues these writs and tries the

cases involved. In case the state auditor refuses to allow a claim against the state, action may be commenced in the supreme court.

Appellate Jurisdiction. Appeals may usually be taken to the supreme court from decisions of lower courts on the following grounds: (a) that the judge did not rule correctly as to what evidence should be admitted; (b) that the judge gave incorrect instructions to the jury, or (c) that the evidence was not sufficient to support the verdict. There are other grounds for appeal not so easily explained here. The supreme court may (a) affirm the judgment of the lower court, (b) reverse it, (c) order a new trial of the case, or (d) in certain cases may order a judgment to be entered in the court below.

No Jury. As a general rule judges of a court interpret the law and decide what it means in a given case, and juries decide what the facts are if they are in dispute. The supreme court is a court of law, not of fact, so it never has a jury. If a case coming before it involves a dispute as to what the facts are, the case, or that portion of it, is sent to a circuit court, where a jury is called, testimony taken, and the facts decided. There is no appeal possible from a decision of this court *unless the case involves the laws or constitution of the United States*. The famous Dred Scott decision (see any United States history) was one of this kind.

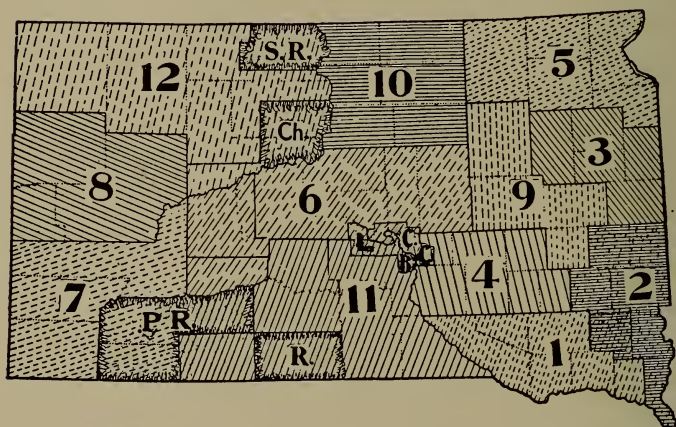
Constitutionality of a Law. Any law, city ordinance, decision of an officer, or legal proceeding of any kind must not violate the constitution of the state. The supreme court of the state is the only one that can finally decide whether a given law, ordinance, etc., conforms to the state constitution.*

* The supreme court of the United States finally decides whether a law passed by congress, by the state legislature or any other law making body, or any legal decision or proceeding, violates the constitution of the United States.

TO LICENSE ATTORNEYS. To practice law in any court of the state, excepting that of a justice of the peace, one must have a license. These licenses are granted by the supreme court of the state after an examination of the applicants. Graduates of the college of law at the state university are granted licenses without examination. (To practice law in any federal court, one must have a license issued by a United States district court.) Salary of judge of the state supreme court is \$3,000.

State Circuit Courts

Circuit Judges. The state is divided into twelve districts or "circuits,"* in each of which a judge is elected



State Judicial Circuits. South Dakota is divided into twelve judicial circuits. This map shows the Indian Reservations as bounded in 1917. S. R.—Standing Rock. Ch.—Cheyenne River. C. C.—Crow Creek. L. B.—Lower Brule. P. R.—Pine Ridge. R.—Rosebud. for four years (District No. 2 has two judges). He must be "learned in the law" (that is, licensed by the supreme court), twenty-five years of age, a citizen of the United States, a resident of the state one year, and a resident of the circuit where elected. Salary of circuit judge is \$2,500.

* Called circuits (Lat. *circum*, around + *ire*, to go) from the fact that the circuit judges go around from county to county trying cases. See Index.

Officers. Each organized county elects a clerk of the courts (county and circuit courts) and a sheriff, who act as officers of the circuit court when it is held in the county (twice a year in each county). Stenographers are appointed by the judge to take down testimony and other transactions, and bailiffs to wait upon the jury and court. Any attorney connected with a case that is being tried is also an officer of the court. In case a person accused of crime cannot afford to employ a lawyer to defend him, the judge appoints one and the county pays for his services.

Jurisdiction. The circuit court has original jurisdiction in almost any kind of case that may arise. The principal exceptions are as follows:

a. *Probate Cases* (see Index). These are tried in the county court. Many of them may be appealed to the circuit court.

b. *City and Town Ordinances.* Violations of city and town ordinances must be tried before city or town justices or municipal judges.

c. *Federal Cases.* Actions involving the constitution, treaties, or laws of the United States, or those between states or between citizens of different states are tried in a United States court (see Chapter IX). Crimes committed on Indian reservations are also tried in a federal court, and the state courts have no jurisdiction over them.

Lower Courts

County Court. The county judge is elected every two years, and must be someone admitted to the bar; that is, a licensed attorney. He may hold three kinds of court:

Probate Cases. The principal duties of the county judge are to look after the property of deceased persons and see that their wills, if they have made wills, are carried out, or to see that the property is divided properly among the heirs. He appoints guardians for orphans who are minors and for insane persons. See administrator, executor, etc., in Glossary.

Juvenile Cases. "Whenever any child sixteen (16) years of age or under, is arrested with or without warrant, such child shall, instead of being taken before a justice of the peace or police magistrate, be taken directly before the county court." Unless the offense charged be felony,* this court has power to send a delinquent* child of eighteen or under to the state training school, or may have the child and his parents or guardian report his conduct from time to time to see whether the child is reforming.

Criminal and Civil Cases. In counties having a population of 10,000 or more, the county court may try civil cases where the amount in dispute is not over \$1,000, and criminal cases of misdemeanors (see Glossary).

In case of a vacancy in this office the governor appoints someone.

Municipal Courts. Any city having a population of 5,000 or more, or a population of 1,500, if a county seat, may establish a municipal court. The judge must be at least twenty-five years old and a licensed attorney. The city auditor acts as his clerk. His jurisdiction extends over the entire county. He can try most civil cases where no more than five hundred dollars is in dispute, and criminal cases of misdemeanors (see Glossary).

* See Glossary, p. 265.

Justice Courts. There are many justices of the peace, county, township, city, town and village. They do not need to be "learned in the law," that is, licensed attorneys, as in all courts previously discussed in this chapter. The jurisdiction of the justice court is limited to civil cases where the amount in controversy does not exceed \$100.00, and to criminal cases where the offense is not punishable by more than a fine of \$100.00 or thirty days in jail, or both. The justice may give a "preliminary hearing" in case of greater crimes and commit the accused to jail to await trial in a higher court, or require bonds for his appearance.

Criminal and Civil Actions. A criminal action is one prosecuted by the state against a person charged with a public offense or crime. The state is represented by the state's attorney for the county where the offense was committed. A civil action is one brought by a person, firm or corporation against another person, firm, or corporation. A civil action is usually called a lawsuit.

BEGINNINGS IN A CIVIL ACTION.

PARTIES TO AN ACTION. The one who brings a civil action is called the *plaintiff*, and the one against whom the action is brought is called the *defendant*.

SUMMONS. A civil action is commenced by the issuance, in the name of the state, of a summons to the defendant, notifying him that he must make answer to the complaint at a certain time. If the action is brought in a justice court the summons is signed by the justice and served by the sheriff or a constable. If in the circuit court, the summons is signed by the attorney for the plaintiff and is served by the sheriff. In either case a summons may be served by any elector of the county who has no interest in the case.

PLEADINGS. The *complaint* is the formal statement of the facts upon which the plaintiff will rely in the trial. The *answer** is the formal statement of the defendant. If, in the answer of the defendant, a counterclaim is made against the plaintiff, the latter may make a *reply* to the answer. These papers include every point in dispute and are called the *pleadings*. If either party† fails to appear, personally or by counsel at the appointed time, he loses his case and must pay the costs of the action besides.

BEGINNINGS IN A CRIMINAL ACTION.

COMPLAINT AND PLEA. In a criminal action the state is the plaintiff (see p. 266) and the one accused of crime is the defendant. The one who makes the complaint before the justice is called the complaining witness. After the complaint has been made a warrant of arrest is issued (see p. 73). The defendant is not summoned, as in a civil case, but is arrested and taken before the justice and here he is required to enter a *plea** of guilty or not guilty of the accusation. Usually a trial cannot be held until witnesses have been summoned and other preparations made. In most cases the accused may furnish bail or security for his appearance at the time of the preliminary examination, otherwise he must stay in jail. In a civil action it is very rare that the defendant is arrested and held in custody.

SUBPÆNA, VENIRE. The summons issued to compel the attendance of a witness is called a *subpœna* (Lat. *sub.* under + *pœna* punishment). The summons requiring the attendance of jurors is called a *venire* (Lat. *venire*, to go).

The Opening. After the jury has been selected and sworn, the case is opened by the counsel for the plaintiff (in a criminal case, the state's attorney). He presents the complaint and outlines to the jury what he intends to prove.

Evidence. The witnesses for the plaintiff are then examined. The counsel for the plaintiff questions his witness until the facts are brought out, and then the counsel for the defendant questions, or "cross-examines," the witness. After the witnesses for the plaintiff have all testified, the counsel for the defendant opens the case for the defense, explaining to the jury what he intends to prove. The witnesses for the defense then testify, the counsel for the defense first questioning them, and then

* Instead of an answer or plea the defendant sometimes files a *demurrer*, claiming that the court has not jurisdiction, that there are not sufficient grounds stated to support an action, or that there is some other good and legal reason why the case cannot be tried.

† This use of the word "party," for "person," and its use in such forms as contracts and other legal papers, is correct and has the sanction of good usage. Outside of such documents and statements of law, however, this use is not in good taste (see the word "party" in the International dictionary). This is also true of the improper use of such lawyers' terms as "said," "same," etc. Thus "The *party* losing her umbrella may find *same* at my office," should be, "The *person* losing her umbrella may find it at my office."

the counsel for the plaintiff cross-examining them. After the evidence for the defense has been given, the plaintiff may introduce evidence to contradict anything offered in the defense. This is called the rebuttal.

Each witness first takes the following oath, administered by the clerk or by the judge:

"You do solemnly swear that the evidence you shall give relative to the cause now under consideration shall be the truth, the whole truth, and nothing but the truth. So help you God."

To violate an oath is *perjury*, a penitentiary offense.

People usually dislike to give evidence in court against a person. It should be remembered, however, that in a trial a witness does not act in a private capacity, but is exactly like a public official and represents the public welfare and not his own individual desire. This is equally true of pupils giving testimony in school. There is a marked difference between petty "tattling" and the giving of evidence when questioned by the teacher.

Arguments. The counsel for the plaintiff then addresses the jury, presenting his argument. The counsel for the defendant follows with his argument, and then the counsel for the plaintiff closes the argument. This is the usual order of the arguments. The argument is often improperly called the "plea" or "pleading."

Charge to Jury. The judge then reads his instructions to the jury as to the law in the case. This is called his charge to the jury. A justice of the peace, not necessarily being learned in the law, never gives such instructions.

Verdict. The jury then retire to a room by themselves, consider the evidence, and bring in a decision. If they cannot agree, they may be discharged and a new trial must be held. The verdict (Lat. *vera*, true + *dicere*, to say) in a criminal case is "guilty" or "not guilty." In some cases the jury also determine the degree of crime and punishment. In a civil case the verdict is usually,

"We find for the plaintiff in the sum of \$. and the costs and disbursements of this action; or, "We find for the defendant"; in which case, the plaintiff must pay the costs of the trial.

The Jury

Grand Jury. It is the duty of the grand jury to investigate causes of crime and accuse any who should be tried. In the United States courts the grand jury always meets for this purpose, but in South Dakota a grand jury is not called unless the circuit judge considers it necessary or desirable. In the United States courts the grand jury consists of from fifteen to twenty-three men; in South Dakota, of from six to eight men.

The grand jury sits in secret; the state's attorney is its legal adviser; and it usually examines only the witnesses against a suspected person. The grand jury does not decide whether a man is guilty, but simply whether there is enough evidence against a person to accuse him and have him arrested and tried. The accusation may take one of two forms: (a) An *indictment* (in-ditément) is an accusation drawn up by the state's attorney and approved by the grand jury; (b) A *presentment* is an accusation made by the grand jury independent of the state's attorney.

Petit Jury. The duty of the petit jury is to hear evidence in trials and decide cases. The petit jury consists of twelve men. In criminal cases all must agree in a verdict; but in nearly all civil cases involving no more than one hundred dollars, three-fourths of the jury may decide the case. In justice courts the jury usually consists of six men.

How Summoned. Two hundred names of competent persons are chosen from assessors' lists of the various townships, towns and cities of the county. The clerk of the courts, county auditor, county treasurer and sheriff select by lot from the list of two hundred the number of jurors ordered by the judge of the circuit court. Venires are then issued by the clerk of the courts to the sheriff* commanding him to summon the persons thus chosen. The following cannot be compelled to serve as jurors: clergymen, physicians, postmasters, mail carriers, firemen, or those who have served five years as firemen (the latter must be twenty-five years old, and they are also exempt from poll tax), certain county officers, and all persons over sixty years of age.

The common method of selecting jurors in a justice court is for the justice of the peace to make out a list of twelve suitable persons; the plaintiff is then permitted to strike out three names, the defendant three, and the remaining six are summoned.

How Impaneled. The Code of Criminal Procedure (Sections 304 and 306 describes the method as follows:

"At the opening of the court the clerk must prepare separate ballots, containing the names of the persons returned as jurors, which must be folded as nearly alike as possible, and so that the same cannot be seen, and must deposit them in a sufficient box."

"Before the name of any juror is drawn, the box must be closed and shaken, so as to intermingle the ballots therein. The clerk must then, without looking at the ballots, draw them from the box."

When a name is drawn, the juror steps forward and is examined as to his qualifications to act as a juror in the case before the court. He may be objected to on certain grounds. The drawing is continued until twelve have been accepted. In case the list of those summoned is exhausted before twelve jurors have been accepted, additional jurors, called *talesmen*, are summoned.

MAXIMS OF JURISPRUDENCE.

When the reason of a rule ceases, so should the rule itself.

Where the reason is the same, the rule should be the same.

One must not change his purpose to the injury of another.

Any one may waive the advantage of a law intended solely for his benefit, but a law established for a public reason cannot be contravened by a private agreement.

One must so use his own rights as not to infringe upon the rights of another.

He who consents to an act is not wronged by it.

Acquiescence in error takes away the right of objecting to it.

No one can take advantage of his own wrong.

He who has fraudulently dispossessed himself of a thing may be treated as if he still had possession.

He who can and does not forbid that which is done on his behalf is deemed to have bidden it.

No one should suffer by the act of another.

He who takes the benefit must bear the burden.

One who grants a thing is presumed to grant also whatever is essential to its use.

For every wrong there is a remedy.

Between those who are equally in the right, or equally in the wrong, the law does not interpose.

Between rights otherwise equal, the earliest is preferred.

No man is responsible for that which no man can control.

The law helps the vigilant before those who sleep on their rights.

The law respects form less than substance.

That which ought to have been done is to be regarded as done in favor of him to whom, and against him from whom, performance is due.

That which does not appear to exist is to be regarded as if it did not exist.

The law never requires impossibilities.

The law neither does nor requires idle acts.

The law disregards trifles.

Particular expressions qualify those which are general.

Contemporaneous exposition is in general the best.

The greater contains the less.

Superfluity does not vitiate.

That is certain which can be made certain.

Time does not confirm a void act.

The incident follows the principal, not the principal the incident.

An interpretation which gives effect is preferred to one which makes void.

Interpretation must be reasonable.

Where one of two innocent persons must suffer by the act of a third, he by whose negligence it happened must be the sufferer.

—Civil Code.

FIFTH MONTH

C. Judicial.

(1) Supreme Court.

(a) Judges.

- (1) Number.
- (2) How Chosen.
- (3) Qualifications.
- (4) Term.
- (5) Salaries.

(b) Jurisdiction.

- (1) Appellate.
- (2) Original.

(c) Officers.

- (1) Clerk.
- (2) Reporters.
- (3) Marshal.
- (4) Librarian.
- (5) Stenographers.

(2) Circuit Court.

(a) Number of Circuits.

(b) Judges.

- (1) How Chosen.
- (2) Qualifications.
- (3) Duties.
- (4) Term.
- (5) Salary.
- (6) In What Circuit Do You Live?
- (7) Who Is Judge of Your Circuit?

(c) Jurisdiction.

- (1) Appellate.
- (2) Original.

(d) Officers.

- (1) Clerk.
- (2) Attorneys.
- (3) Sheriff.
- (4) Bailiffs.
- (5) Jurors.
 - (a) Grand.
 - (b) Petit.

(3) County Court.

(a) Judge.

- (1) Elective.

(b) Jurisdiction.

(4) Municipal Courts.

(5) Juvenile Courts.

(6) Justice Courts.

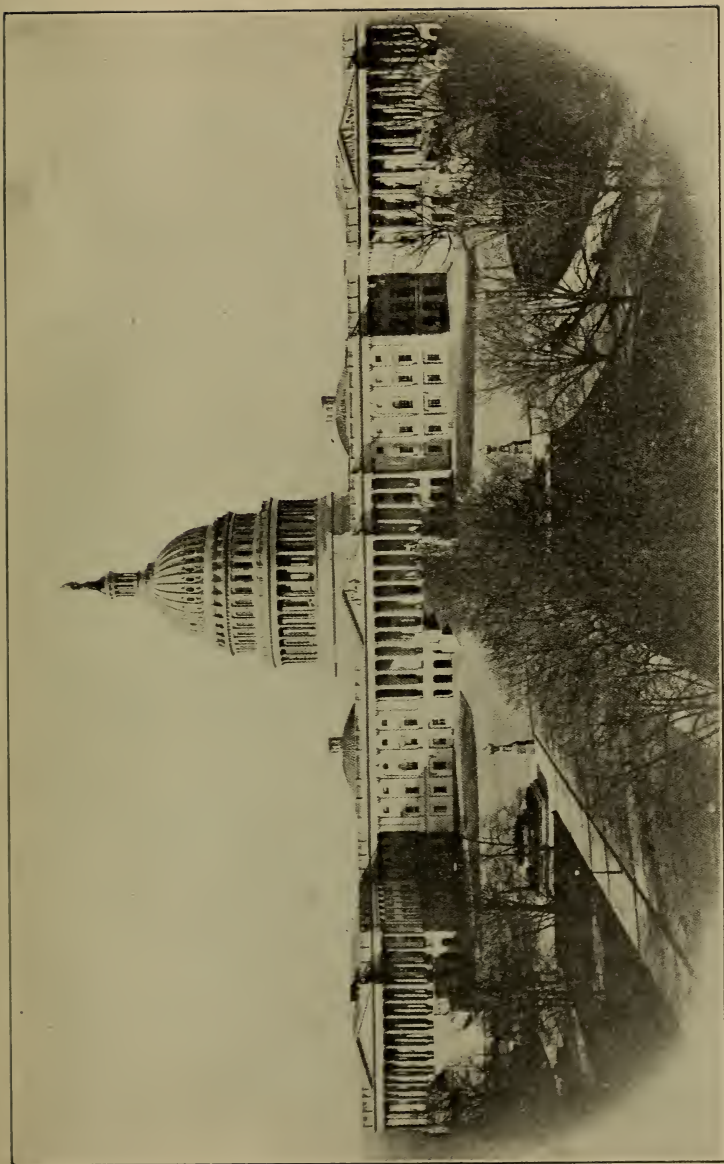
(7) Actions.

- (a) Civil.
- (b) Criminal.
- (c) Procedure.

- (d) Judgments.*
- (e) Executions.*
- (f) Attachments.*
- (g) Quo Warranto.*
- (h) Writs.
 - (1) Mandamus.*
 - (2) Prohibition.*
 - (3) Certiorari.*
 - (4) Injunction.*
 - (5) Habeas Corpus.*
- (8) Crimes.
 - (a) Felonies.*
 - (b) Misdemeanors.*
- (9) Appeals.
- (10) Bail.

If convenient the pupils should visit the various courts mentioned above. If that is impossible, a mock trial may be staged, after the pupils have the work well in hand. Do not miss any chance to bring actual conditions before the pupils, then apply what they have learned to actual cases.

* These topics are explained in the Glossary.



The Capitol at Washington.

PART II—THE NATION

CHAPTER VII

INTRODUCTION TO PART II

The Family. From the earliest beginnings of which we have positive knowledge some form of government has prevailed among people. The smallest more or less permanent group is the family. Here, by reason of their greater experience and wisdom, the parents are naturally in authority. In early civilization, as in ancient Greece and Rome, the power of the parents was supreme even over the lives of their children. They could be put to death or sold into slavery. In modern civilization, many parental rights are limited by the larger social group. The most fundamental training in citizenship is usually acquired in the home. The child who has not learned the virtue of obedience in the home is likely to have grave difficulties to overcome.

The School. In the school we find a larger group and a more complex government. The teacher is said to be *in loco parentis*, "in the place of a parent," having authority in government equal to that of the parent in the home. Here pupils learn to respect the rights of many others and to work co-operatively. The community is deeply interested in the school, taxes are paid for its support, and it is often made a center for neighborhood gatherings. It is a good sign of intelligence and progress when such gatherings frequently take place for de-

bate, lectures, community singing and social entertainment.

Local Government. The various local governments, such as the town, township, city, county, etc., adjust many of the problems of associated life. The theory originally governing the size of the township was that it should be of such size that any resident could walk from his home to some central location to attend to local affairs, vote, etc., and return the same day. The county was supposed to be of such size that a resident might drive with a team to and from the county seat in one day.

The State. We have learned how the original thirteen states started originally as colonies and became independent states, and how other states began as pioneer settlements, obtained territorial government, and at length were admitted to the Union as states.

Sovereign and Dependent Governments. So far as foreign relations are concerned, the United States alone can make war and peace, send representatives to other sovereign powers, such as Great Britain, France and Germany. In this sense the United States is a sovereign and independent government. States, territories and possessions like the Philippine Islands, are dependent governments. Nevertheless, all the various governments within this country—national, state, county, city, etc.—are closely interdependent, a complex network of political (and social, too) unities. In its complexity of “governments” this country is unique among the nations of the world.

Monarchy. There are two forms of government among civilized people today—monarchies and republics. A monarchy (Gr. *monos*, alone + *archein*, to rule) is that form of government in which a king or queen is

at the head. In an absolute monarchy the king is not restricted by law. In a limited monarchy the king or queen has to obey the laws passed by the representatives of the people. In such monarchies as Great Britain the king has almost no governmental power—not nearly so much as the president in a republic—and the people as truly rule as in some republics. Indeed, there are few republics where the people rule so completely as in Great Britain. A monarchy of great extent is sometimes called an empire.

A Republic. A republic is that form of government in which representatives of the people make and enforce all laws. The chief ruler is called a president. The terms republic (Lat. *res*, affair + *publica*, public) and democracy (Gr. *demos*, people + *kratein*, to rule), as we now use the words, mean very nearly the same. When we speak of a democracy we usually think of the people themselves as ruling. The voters of a township and of a common school district have meetings and decide upon certain matters. Their government to that extent is a pure democracy.

OTHER FORMS OF GOVERNMENT. A number of terms are used to indicate forms of government which have prevailed to some extent in the past. The original meaning of these words indicates the character of the government. *Patriarchy* (*pater*, father + *archein*, to rule) means rule by a father, as among people in the tribal stage. *Theocracy* (*theos*, God + *kratein*, to rule), means a rule by the immediate direction of God, hence a government by priests as representing Deity. *Aristocracy* (*aristos*, the best + *kratein*, to rule) means a government by a small privileged class. *Plutocracy* (*ploutos*, wealth + *kratein*, to rule) means a government by the wealthy. *Oligarchy* (*oligos*, few + *archein*, to rule) is a government in which the power is in the hands of a few people.

COLONIAL GOVERNMENT. The beginnings of nearly all of the elements of our present political institutions are to be found in the thirteen original colonies. The people who settled these colonies, and their fathers before them, had been practicing some forms of self-government for hundreds of years. Each colony had a well defined government as follows:

a. *CHARTER COLONIES.* These included Connecticut, Massachusetts, and Rhode Island. These charters were, in reality, contracts between the groups and the King of England.

b. *PROPRIETARY COLONIES.* In Pennsylvania, Maryland, and Delaware some individuals had been given charters by the King. These charters vested large governmental powers in the proprietors of the colonies.

c. *ROYAL COLONIES.* New Hampshire, New York, New Jersey, Virginia, North and South Carolina, and Georgia had no charters but were ruled by governors appointed by the King. All of the colonies, however, had legislatures which could pass any laws which did not conflict with the laws of England. The governors had the veto power and the taxes, in the main, were imposed by the people themselves. The people of this country have thus from the beginning been familiar with constitutions, local self-government, the veto power of the executive and the making of laws which are restricted by certain limits (in early days by the charters and the laws of England, now the constitutions, and laws of higher governments, as the city council is limited by the laws of the state).

Constitutions. A constitution is the fundamental law of a country. Most of the great nations of today have written constitutions, but in some countries, as in Great Britain, there is no one great document which prescribes the framework of the government and determines its principal features. Their constitution is said to be unwritten as it is to be found in many different concessions of kings, as the Magna Charta, and in customs and precedents.

Development of Constitutions. The constitutional history of any nation shows a great many changes in its fundamental laws and methods of government. In many countries the price of modern liberties has been war and bloodshed. Magna Charta, the "great charter" of the English constitution, was obtained from King John at the battle of Runnymede in 1215, and history is filled with similar struggles. Often the greatest of constitutional changes have been brought about by peaceful means. In 1787-9 the people of the United States, disregarding the provisions of the Articles of Confederation as to a change

in government, laid aside that constitution and adopted a splendid one which has proved to be admirably adapted to our needs.

A constitution, even though it be written, is subject to change. One method of changing it is by amendment. Another is by court decisions which interpret the constitution. At one time the supreme court has interpreted a provision of our federal constitution in one way and later the supreme court has interpreted the same provision in exactly the opposite way.* Customs may also be developed which are practically as binding as the constitution itself. While we have not changed the method of electing a President, as planned by the members of the constitutional convention of 1787 (save for the change in form adopted in 1804, amendment XII), we have completely changed the theory underlying it. The constitution provides that the President shall be chosen by a small group of electors, but in reality the people do the choosing of President, the presidential electors never doing more than to register the will of the people who elected them. Then, too, such matters as the custom of electing a President no more than twice have almost the same force as though they were provided in the constitution.

Interpretation of the Constitution. We shall note in Chapter VIII how differences arose in the interpretation of the constitution. By a strict construction of the constitution is meant a close limitation of governmental powers to those specified in the constitution. When the question of the purchase of Louisiana from France was raised, someone said: "The constitution gives congress no such power, and it cannot legally be done." This was

* See Hinsdale's "The American Government," section 346.



U. S. Capitol.



State Capitol.

LEGISLATIVE DEPARTMENT.

UNITED STATES.

CONGRESS meets once a year at Washington, D. C., and makes laws for the nation.

Consists of two bodies of men, a senate and a house of representatives.

The federal senate is made up of two senators from each state, chosen by vote of the people. Term six years.

The presiding officer is the Vice President of the United States.

The federal house of representatives is made up of representatives elected by the different states; the number from a state depends upon its population. Term two years.

The presiding officer is called the speaker.

SOUTH DAKOTA.

LEGISLATURE meets once every two years at Pierre and makes laws for the state.

Consists of two bodies of men, a senate and a house of representatives.

The state senate is made up of senators elected by the voters of districts made up of one or more counties. Term two years.

The presiding officer is the Lieutenant-Governor of the state.

The state house of representatives is made up of representatives elected by the voters of districts consisting of one or more counties. The number from any district depends upon its population. Term two years.

The presiding officer is called the speaker.

EXECUTIVE DEPARTMENT.

PRESIDENT of the United States, the chief executive officer. Elected for four years.

Many other federal officers to enforce federal laws.

Vice-President of the United States, fills vacancy in office of President.

Is president of the U. S. senate.

GOVERNOR of South Dakota, the chief executive officer. Elected for two years.

Many other state officers to enforce state laws.

Lieutenant-Governor of South Dakota, fills vacancy in office of Governor.

Is president of the state senate.

JUDICIAL DEPARTMENT.

UNITED STATES COURTS, with judges and other officers to decide whether a federal law has been violated or applies in a given case. Judges appointed by President.

United States Supreme Court. Nine judges, meet at Washington. Circuit court of appeals relieves supreme court of many cases. Appointed for life.

United States District Courts. At least one for each state. One judge in each district, appointed for life.

(U. S. has no court corresponding to this. Court commissioner is nearest like it.

STATE COURTS, with judges and other officers to decide whether a state law has been violated or applies in a given case.

Judges elected.

South Dakota Supreme Court. Five judges, meet at Pierre. Elected for six years.

State Circuit Courts. Twelve in South Dakota. One judge in each circuit. Elected for four years.

Justices of the Peace. Two elected for two years by each city, township and town in the state.

a strict construction or interpretation of the constitution. Others interpreted the constitution as granting the federal government all sovereign powers possessed by other nations and said that the purchase could be made. This was a "loose", "broad", or "elastic" construction of the constitution. The supreme court of the United States has usually given a loose construction to the constitution.

State Rights. According to this theory, each state as sovereign had entered the Union voluntarily and could annul any act of Congress so far as it applied to that state, and further, could secede, or withdraw from the Union, if it desired. This theory in its extreme form was held by many until after the Civil War, which settled once for all the fact that this is an indivisible Union and that the nation only is sovereign. "Liberty and Union, one and inseparable, now and forever." This noble sentiment was expressed in 1830 by Daniel Webster in his famous reply to Senator Hayne of North Carolina who favored "state rights," "nullification," and who threatened "secession." All have come to accept this as a fundamental conception of the unity of our nation.

Comparison of State and National Constitutions. It is very important that the student clearly distinguish between the two great governmental units under which we live—the state and the nation. The outline of the main features of these governments in parallel columns should be thoroughly mastered.*

Form of State Government. The state governments are, in the main, modeled after the form of the national

* Study these so thoroughly that when a topic is read from one column you can repeat the corresponding one from the other column. Practice doing this by covering up one side, reading the other, and seeing whether you can repeat the column covered up. *Do not fail to master this portion.*

or federal government, as the parallel columns show. The federal constitution guarantees a republican form of government.

A Republic Within a Republic. The United States is a republic because the government is carried on by officers chosen by the people. For the same reason South Dakota is a republic, and we have already noticed that the name "Dakota" has the beautiful meaning, "A Republic of Friends." Thus each state of our Union is a republic within a republic, each with its own laws, powers and duties.

Division of Powers. All governmental powers are exercised either by the state or by the nation. The division of the powers of government in Canada is on the opposite plan from ours. The constitution of that country (called "The British North America Act of 1867") provides that certain named powers are given to the states (called provinces), and *all other powers shall belong to the federal government* (called the Dominion). Now, our federal constitution provides that the national government shall have certain named powers *and all others shall belong to the states*. Following are some of the powers exercised by the national government which the states do not have:

Exclusive National Powers. The national government has power to coin money and punish counterfeiting; to make war and peace and control the army and navy; to make treaties with foreign nations; to regulate commerce with foreign nations, with Indians, and between states; to settle disputes between the states or between citizens of different states; to punish crimes on the high seas; to admit new states into the Union and to govern all territories and possessions of the United States, and

the District of Columbia; to regulate the election of President and members of Congress; to provide how foreigners may become citizens; to provide bankruptcy laws; to provide for the mail service.

State Powers. Among the many governmental powers carried on by a state, over which the nation has little or no direct control, may be named the following: The punishment of people within the state who violate state laws; the regulation of commerce which is wholly within the state; to decide who may vote; to carry on a system of public schools; to regulate contracts, marriage and divorce; to conduct all elections of local, state, and federal officers; to care for insane and other defectives; to regulate the practice of medicine, dentistry, etc.; to regulate insurance; to regulate deeds, mortgages, and sales of land and other property; to protect life and property. There are a great many other affairs which are left almost entirely to the states to control and adjust.

Concurrent Powers. There are many powers in which both the federal government and the state government have a share. Both may tax people, industries and property; both may encourage agriculture, manufacturing, education and other activities; both may provide for the public health, good roads, drainage, irrigation, and a great many other public undertakings. We have national banking laws regulating national banks and state banking laws regulating state banks.

Nation Supreme. The constitution of the United States denies some powers to both the federal and state governments. (See Article I, Sections 9 and 10.) These we shall study later. It is well to remember that while these two governments apply to each person, and each government has practically nothing to do with the other,

the federal government is always supreme. and in case of conflict or disagreement of laws the state must give way to the nation.

"All political power is inherent in the people, and all free government is founded on their authority and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. AND THE STATE OF SOUTH DAKOTA IS AN INSEPARABLE PART OF THE AMERICAN UNION, AND THE CONSTITUTION OF THE UNITED STATES IS THE SUPREME LAW OF THE LAND."—Constitution of South Dakota.

Rights. Civil rights are those which one possesses which do "not involve participation in the establishment, support, or management of the government—distinguished from political rights." Nearly all of the rights named in the "bill of rights" in our state constitution (see Article VI) are civil rights. The right to own property is a civil right; the right to vote or hold office is a political right. It is not necessary to make fine distinctions in classifying "rights." Religious rights, "to worship God according to the dictates of conscience," are guaranteed by the constitution of the state and the nation. These rights, of course, are limited to what is considered moral and decent. Natural rights are such as belong to a person as a human being, such as the right to "life, liberty, and the pursuit of happiness." *It should be remembered that one person's rights are bounded by the rights of others.*

Statute Law. This is any law passed by a legislative body. The bill published in Chapter IV, providing free tuition for the eighth grade graduates was passed by the legislature and approved by the governor. It is therefore a statute law.

Common Law. There are many practices which the courts recognize as legal though there may be no statute law covering the subject. A great many long-established customs which have been recognized by the courts of England are known as the English common law. The English colonists here continued to practice these customs, just as they continued to speak the English language, and we still have the former for the same reason that we have the latter. (See Glossary.)

Citizenship. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside" (Article XIV). Any child born in the United States, whether his parents are citizens or not, is a citizen of the United States. If his parents are citizens, but are temporarily living in a foreign country at the time of his birth, he is also classed as a "natural born citizen of the United States." A foreigner who is living in a country of which he is not a citizen is called an alien. The process whereby an alien becomes a citizen is called naturalization. This is discussed in Chapter X.

GENERAL DEFINITIONS AND DIVISIONS*

1. This act shall be known as the civil code of South Dakota.
2. Law is a rule of property and conduct prescribed by the sovereign power.
3. The will of the sovereign power is expressed:
 - a. By the constitution of the state.
 - b. By statutes enacted by the legislature.
 - c. By the ordinances of other and subordinate legislative bodies.
4. The common law is divided into:
 - a. Public law, or the law of nations.
 - b. Domestic or municipal law.
5. The evidence of the common law is found in the decisions of the tribunals.
6. In this state the common law is in force except where it conflicts with the codes or the constitution.

*This outline is taken directly from the civil code of South Dakota.

7. All original civil rights are either:
 - a. Rights of person; or
 - b. Rights of property.
8. Rights of property and of person may be waived, surrendered, or lost by neglect, in the cases provided by law.
9. This code has four general divisions:
 - a. The first relates to persons.
 - b. The second to property.
 - c. The third to obligations.
 - d. The fourth contains general provisions relating to persons, property and obligations.

SIXTH MONTH

THE NATIONAL GOVERNMENT.

1. Government.
 - (a) Purpose and necessity.
 - (b) In the Home.
 - (c) In the School.
 - (d) In the District.
 - (e) In the Township.
 - (f) In the town or city.
 - (g) In the County.
 - (h) In the State.
 - (i) In the Nation.
2. Kinds of Government.
 - A. Sovereign.
 - (1) Minimum.
 - (a) Monarchy.
 - (1) Absolute.
 - (2) Limited.
 - (b) Democracy.
 - (c) Republic.
 - (2) Supplementary.
 - (a) Patriarchy.
 - (b) Theocracy.
 - (c) Aristocracy.
 - (1) Plutocracy.
 - (2) Oligarchy.
 - B. Dependent.
 - (1) State.
 - (2) Territorial.
 - (3) Colonial.
 - (a) Charter.
 - (b) Proprietary.
 - (c) Royal.
 - (d) Modern.

3. Constitutions.
 - A. Define.
 - B. Kinds.
 - (1) Unwritten.
 - (2) Written
 - C. Development.
 - D. Interpretation.
 - (1) Strict or close construction.
 - (2) Liberal or Loose.
 - (3) State's rights.
 - (4) Court Constructions.
 - (5) Contrast between National and State Constitutions.
 - E. Form of State Government.
4. Rights.
 - (a) Civil.
 - (b) Religious.
 - (c) Natural.
- 5 Laws.
 - (a) Supreme.
 - (b) Common.
 - (c) Statute.
6. Citizenship (see also p. 194).
 - (a) Natural born.
 - (b) Naturalized.
 - (c) Process of naturalization.
 - (1) First or Intention papers.
 - (a) Oath of Intention.
 - (2) Second or Final Papers.
 - (d) Forfeiture.

CHAPTER VIII

HISTORY OF THE CONSTITUTION

CONGRESS

Colonial Life. We have already noted the fact that the people who founded the thirteen colonies were familiar with the government of the town and county, with elections and other processes of self-government. They were accustomed to taxing themselves to carry on public affairs.

The sturdy independence of the early colonists and their insistence upon their rights to self government is illustrated in the following incident. The colony of Massachusetts Bay was started in 1629 with a few Puritan settlers at Charlestown, near Boston. A thousand settlers came over in 1630 and settled in little towns not far from there. The next year the Indians were threatening danger and the Board of Assistants, appointed by the Company which established the colony, levied a tax of about \$300 on the settlements for fortifications and protection from the Indians. The town of Watertown flatly refused to pay this tax on the ground that "English freemen cannot be taxed save by their own consent." The dangers from the Indians seemed of less consequence than the dangers of an encroachment on their liberties!

Marked Differences. In your study you have doubtless noticed that there gradually developed a marked difference between the institutions of the South from those of the North. The township, or small unit of government, became the most important in New England, and is to this day. In the Southern states the county became the most important. These are only incidental differences which grew out of the differences in geography, occupation, the use of slaves, etc. The land in New Eng-

land being hilly and rocky and the people coming over in little groups of church people, led, in many cases, by their pastor, had much to do with the adoption of a small unit of government there. The raising of cotton and tobacco made the employment of slaves more profitable in the South than in the North. Large plantations were established, and the wide and deep rivers made natural highways. There were many other differences among the people of the different colonies, and local or state patriotism developed. National patriotism was of slow growth.

Common Interests. The French and Indian wars compelled the colonies to unite to some extent and made the people of the different colonies better acquainted with each other. The fact that the colonial troops in these wars often proved to be better soldiers than the royal soldiers sent from England stimulated some national pride. Following the French and Indian War of 1755-63, the grievances of the colonies against the mother country were greatly multiplied. There had been many troubles over charters, governors, trade discriminations, laws preventing manufactures, etc., but now there were many added ones. At length came the Revolutionary War. The principal fact we want to notice here is that these troubles with Great Britain *tended to unite the colonies*; they may all be counted as steps in the formation of the Union.

Birth of the Republic. The date of the birth of this nation is usually considered to be July 4, 1776. The Declaration of Independence committed the people of the thirteen colonies to an independent national existence. During the war of the Revolution the colonies became independent states, and a central government

was established at Philadelphia. The congresses which met there were at first revolutionary bodies, having no recognized legal rights. It was the stress of war and necessity that gave sanction to the authority exercised.

The Articles of Confederation. In 1777, congress adopted the "Articles of Confederation and Perpetual Union between the States" as a constitution for the government of the nation. This was ratified by the states. It provided for a congress consisting of a body of delegates from the different states. In deciding all matters in congress each state had one vote. There was no separate organization of executive and judicial departments.

WEAKNESSES. Even before the close of the Revolution it was apparent that the federal government under the Articles of Confederation was too weak. Congress was not given sufficient authority. Then, too, congress had to deal with states rather than with individuals. It is hard to compel a state to obey a decree, but an individual can easily be coerced. Thus, states were asked by congress to pay certain taxes, and when some refused to do so it was impossible for congress to raise the money. There were other serious defects, notably the lack of power by the federal government to regulate money and commerce. Innumerable petty troubles and several serious differences arose between states in these matters.

Attempts to Amend. The people and the continental congress were fully aware of the many weaknesses of the articles of confederation. Congress made several attempts to secure amendments empowering congress to regulate foreign commerce, collect duties on imported goods and to collect more taxes. To amend the articles of confederation the consent of every state was necessary, a most serious defect. It was impossible to secure the consent of every state to the proposed amendments so they all failed. We will now note the attempts to remodel the Articles of Confederation, resulting in a completely new constitution.

The Alexandria Conference. In 1785 delegates appointed by the legislatures of Virginia and Maryland met at Alexandria, Virginia, to draw up a plan to settle troubles arising between the two states relative to commerce on Chesapeake Bay. George Washington invited the delegates to come to his beautiful Mt. Vernon home, near by, for dinner. Here the discussion of the troubles that brought the delegates together led to suggestions as to agreements concerning commerce and uniform money for other states as well. The legislature of Virginia, after receiving the report of the delegates to Alexandria, appointed delegates to meet those appointed by "any other states" to consider these larger propositions.

The Annapolis Convention. In 1786 delegates from several states met at Annapolis. The convention adopted a resolution prepared by Alexander Hamilton of New York recommending that a general convention of delegates from all of the states be held to propose plans for strengthening the general government. This report was sent to each state and to congress.

The Philadelphia Convention. In 1787 delegates representing each of the thirteen states excepting Rhode Island met at Philadelphia and drew up our federal constitution. This was not accomplished, however, without a great deal of debate. Three great compromises were brought about before the constitution was finally accepted by the delegates and submitted to Congress and to the states.

The Connecticut Compromise. Virginia proposed a plan of government with a congress composed of representatives from the states according to population. It was to consist of two bodies, one chosen by the people

and the other by the state legislatures. The latter body was to choose a judicial department and both bodies combined were to choose an executive department. New Jersey proposed a plan whereby a congress of one body should be made up of an equal number of representatives from each state. This congress would appoint an executive department and the executive department would appoint a judicial department. The large states favored the Virginia plan, as it would give them more representatives in congress than the smaller states. The small states favored the New Jersey plan, as it gave them equal representation. After a heated discussion the Connecticut plan was adopted as a compromise. That state had, and still has, a legislature consisting of two bodies, one having representation from towns according to population and another having equal representation from each town. It was proposed that congress consist of two bodies, a house of representatives made up of representatives from the states according to population and a senate having two senators from each state. This plan was adopted.

The Three-fifths Compromise. Immediately the question arose as to whether slaves should be counted in the population of the states in determining the number of representatives. The states having slaves wanted them counted, as this would give them more representatives. The other states objected. At length a compromise was adopted whereby a slave was to be counted as three-fifths of a person in deciding the population on which should be determined the number of representatives and the amount of direct taxes.

Slave Importation Compromise. Some time before 1787 a strong sentiment existed against the importation

of more slaves. By this time nearly all that were imported came to Georgia and the Carolinas, where there were big establishments for "breaking in" the wild negroes brought from Africa. The delegates from these states objected to giving power to congress to regulate commerce, because congress would undoubtedly at once prohibit the importation of slaves if it had the power. At length it was decided that congress should have power over foreign and interstate commerce, but could not prohibit the importation of slaves until 1808 (see Article I, section 9, clause 1, of the constitution).

The Constitution Submitted. The constitution framed by the Philadelphia convention of 1787 was submitted to the several states for their ratification. When nine states approved it the constitution was to go into effect among those so approving it.

Bill of Rights. When the states were considering the adoption of the proposed constitution much criticism was made because it did not contain a "bill of rights".* Most of the constitutions of the states contained a statement of rights belonging to the people. These were taken largely from great English charters. Some of the states hesitated to ratify the constitution until such a bill of rights was included. It was decided, however, to ratify the constitution as it was and then proceed to amend it by adding a bill of rights. This was accordingly done.

The Constitution Adopted. In 1788 the constitution framed by the Philadelphia convention of 1787 was adopted by eleven of the states and it went into effect in

* A splendid example of a bill of rights is the one in our state constitution, Article VI. (See p. 228).

Article V of the constitution provides that amendments may be proposed by a convention if two-thirds of the states demand it. Proposed amendments are ratified by the state legislatures or by state conventions, as congress may direct. All amendments so far have been proposed by congress and ratified by the state legislatures.

1789. North Carolina ratified it November 21, 1789, and Rhode Island in 1790. It is this constitution and the great complex federal government that has grown up in connection with the way it has been interpreted that we are now to study. The constitution itself should be studied over and over as we proceed.

To Amend the Constitution. When the very first congress met, in 1789, by a two-thirds vote a bill of rights was proposed as amendments to the constitution. Within two years these were ratified by three-fourths or more of the states and became a part of the constitution as the first ten amendments. (These should be studied carefully.) Since then seven other amendments have been adopted in the same way—proposed by a two-thirds vote of congress and ratified by three-fourths of the states.

Preamble. The following preamble, or, perhaps more correctly speaking, enacting clause, of the constitution should be committed by every student.

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Three Departments of the National Government. The federal government has a written constitution, which provides for (1) a lawmaking body, congress, (2) a President and other officers to enforce its laws, and (3) federal courts to try cases involving the constitution and laws of the United States and cases between states or citizens of different states. These are called the three departments of government: (1) legislative, or law-making; (2) executive, or law-enforcing; and (3) judicial, or law-applying. Any government must have these

three departments, though in some kingdoms the same officers may exercise powers in all of them.

Congress

Congress. "All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a Senate and House of Representatives." Congress meets in the national capitol building in Washington, District of Columbia, the Capital of the United States.

Sessions of Congress. Each congress has two regular sessions and has special sessions if called by the President of the United States. Since regular sessions begin the first Monday of December, the last one must be a short session because it must end March 4.

Sessions of the Sixty-fourth Congress:

Term began March 4, 1915; end March 4, 1917.

Long session, December 6, 1915, to fall of 1916.

Short session, December 4, 1916, to March 4, 1917.

CONTESTS. Each house is the judge as to who were elected to membership and in case of a contest the question is decided by a vote of the house in which the contest occurs. In November of an even numbered year a person is elected congressman. His term begins on the fourth* of March following his election. He files his certificate of election and then is entitled to his pay. Unless a special session of congress is called he does not report at Washington for duty until the first Monday in December,—over a year after his election. He then takes his oath of office. Not until then is it possible to institute a contest and sometimes a contest lasts until near the close of the short session, that is, near to the fourth of March in the next odd numbered year after his election. The contest may then be decided in favor of the contestant, who is at once given the seat and full pay, even though the seat has already been occupied during the term and the salary paid the other person.

Bills. A bill is a proposed law. Bills are framed, introduced, referred to committees, given three readings, voted upon, approved or vetoed (by the President),

* Since 1853 this is considered to begin at twelve o'clock noon. The acts of congress in the forenoon of the fourth of March are dated the third.

etc., on very much the same plan as in the state legislature.

Records. As in the state legislature, each house keeps a complete record of its proceedings. Most of these proceedings are published daily in the "Congressional Record."

Voting. The methods of voting in either house are as follows:

a. Ayes and Noes. This is by acclamation or *viva voce* ("by the living voice").

b. Rising. Members rise, and are counted, first those for the proposition and then those against it.

c. Division. The members pass between tellers and are counted.

d. Yeas and Nays. This is by roll call and the vote of each member is recorded. One fifth of those present may demand roll call.

e. Ballot. Only when the election of a President or Vice President is referred to the house or senate (as in case of a tie vote or no one receiving a majority of the electoral votes) the choice is made by ballot. This has happened only in the presidential elections of 1800, 1824, and 1876.

PAIRING. Two members who are on opposite sides of a matter which is to be voted upon may "pair" and agree that if one is absent when a vote is taken the other will not vote. Sometimes members are paired for a single vote and sometimes for an indefinite number. Thus a Republican may pair with a Democrat, each agreeing not to vote on any partisan question if the other should happen to be absent when the vote is taken. Pairs are usually announced and recorded so that there may be no misunderstanding.

The House of Representatives. Congress consists of two bodies, the house of representatives and the senate. The house of representatives consists of members chosen

by the people of the several states for a term of two years. The number from a state depends upon the population. To be a representative one must be at least twenty-five years old, a citizen of the United States at least seven years and an inhabitant of the state in which he is chosen. Vacancies are filled by special elections.

Apportionment of Representatives. After each federal census congress must decide how many representatives there shall be and how many from each state. After the census of 1910 congress fixed the number of representatives at 435.

Organization. At the first meeting of the house of representatives after an election it is called to order by the clerk of the former session. The clerk presides until the speaker (see page 90) is elected. The speaker is usually sworn into office by the representative longest in service in the house.* The speaker then administers the oath to the other members as they present themselves by states. Seats are drawn by lot, though members longest in service are given preferences.

Other officers are chosen, such as sergeant-at-arms, chaplain, clerk, postmaster, doorkeeper, etc. Committees are appointed, and other procedure is along the same general line as in the state legislature.

Quorum, Rules, Journal. Provisions are made for a quorum, rules for procedure, and a journal of proceedings similar to those in the state legislature.

There is one marked difference to be noted in the matter of a quorum. In either house of congress or of the state legislature a bill may pass by receiving a majority vote of the quorum that is present. One more than one-half of the members might be present.

* See Peterman's "Elements of Civil Government," p. 123; also Thorpe's "The Government of the Nation," p. 67; also Bryce's "The American Commonwealth," p. 130, footnote 3.

The bill would pass if one more than one-half of these were in favor of it. In the legislature of South Dakota a bill must receive favorable votes of a *majority of all of the members of the house*.

Powers. The house joins with the senate in passing laws. It chooses its own officers, as we have seen, and adopts rules, punishes members by a two-thirds vote, etc. All bills for raising revenue must originate in the house.* Finally, the house of representatives has sole power of impeachment. This is a formal accusation against a civil officer of the United States, charging him with wrongdoing and causing him to be tried by the senate.

The following persons have been impeached (accused) by the house of representatives and tried by the senate:

John Pickering, U. S. Judge, found guilty, removed from office.

Samuel Chase, U. S. Judge, acquitted.

James Peck, U. S. Judge, acquitted.

W. W. Humphreys, U. S. Judge, found guilty, removed from office.

Andrew Johnson, President, acquitted.

W. W. Belknap, Secretary of War, acquitted.

Charles Swayne, U. S. Judge, acquitted.

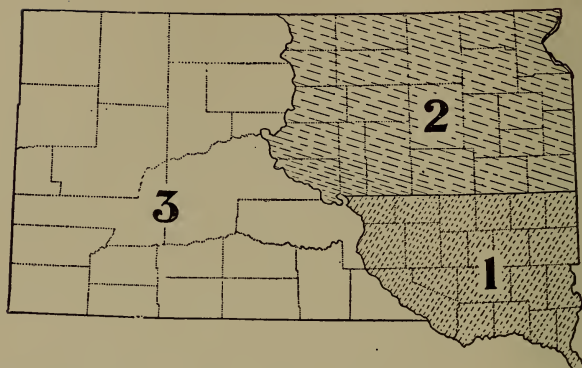
Robert W. Archbald, U. S. Judge, found guilty, removed from office.

William Blount, a senator from Tennessee, was also impeached by the house of representatives, but the senate refused to try him on the grounds that a senator or representative is not subject to impeachment.

It is interesting to note that impeachment in England, where it originated in 1376, may be applied to any person excepting the king and any kind of punishment may be inflicted. In theory, "the king can do no wrong." His ministers are held responsible for all governmental acts.

DEBATE IN THE HOUSE. The large number of representatives makes it necessary to limit debate in a number of ways. Before a debate on a bill begins the Speaker and the chairman of the committee having the bill in charge arrange the list of speakers for and against it. The chairman of the committee usually leads in the debate and closes it, yielding portions of his time to other members in favor of the bill. The time assigned to those opposed to the bill is usually given to the leader of the minority party, who yields to those who have arranged to be heard in opposition. In the committee of the whole (see p. 92) speeches are limited to five minutes on each question. In the senate, debate is unlimited, and any senator who may "get the floor" may keep it indefinitely.

* In the South Dakota legislature any bill may originate in either the house of representatives or the senate.



CONGRESSIONAL DISTRICTS. Until 1913 South Dakota had two representatives in congress and these were elected "at large," that is, from any portion of the state. There are now three representatives apportioned to this state and they are elected from the three congressional districts.

The United States Senate. The United States senate is composed of two senators from each state, elected for a term of six years. Formerly they were chosen by the legislature, but after the adoption of the seventeenth amendment to the constitution of the United States in 1913 they have been elected by popular vote. Vacancies may be filled by special elections. To be a senator one must be thirty years of age, nine years a citizen of the United States, and a resident of the state in which he is chosen. The Vice-President of the United States is president of the senate, but he has no vote in the senate, excepting in case of a tie.

Organization. At the beginning of each new congress the Vice-President presides and administers the oath of office to the senators. The senate elects a president *pro tempore* ("for the time"), who presides when the Vice-President is absent, a secretary, a chaplain, and other officers. The usual committees are appointed and bills are passed, much as in the house of representatives.

Powers. The senate has the usual powers of a legislative body, and in addition has three exclusive powers:

(a) The senate tries all cases of impeachment. President Johnson was impeached (accused and summoned to trial) by the house of representatives and was tried by the senate. He was found not guilty. A two-thirds vote is necessary to convict. When the President is tried the chief justice of the supreme court presides. Judgment in cases of conviction shall not extend farther than to removal from office and disqualification to hold a federal office. If an officer of the United States is impeached by the house of representatives and tried and convicted by the senate he is still liable to arrest and trial according to law.

(b) All treaties with foreign countries must be approved by the senate by a two-thirds vote before they are in effect.

(c) Most of the important appointments made by the President must be approved by the senate.

Executive Session. When the senate is considering a treaty with a foreign country, or the advisability of approving the appointment of a person to an important office, or other matters that are under discussion which the senate does not care to have made public, a secret, or executive session is held.

Compensation. The salary of a member of congress is determined by law. At present it is \$7,500 per year and mileage of twenty cents.

Privileges. Senators and representatives are, in all cases except treason, felony and breach of the peace, privileged from arrest during their attendance at sessions and in going to and returning from them. For any speech or debate in either house they shall not be questioned in any other place.

Treason is defined in the constitution as levying war against the United States or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. Felony is a crime punishable by death or penitentiary imprisonment. A lesser crime is called a misdemeanor.

Pocket Veto. The process of passing a law by congress is very similar to the methods which we studied in Chapter IV for the state. The President, however, has a veto power which the governor of South Dakota does not possess. If congress sends a bill to the President and adjourns within ten days, so he cannot return it, he has an absolute veto. By letting it lie without action, it does not become a law. This voiding a bill which is presented to the President within the last ten days of the session by his neither signing it nor returning it with his objections, is called a "pocket" or "silent" veto. In South Dakota, to veto a bill the governor must return it with his objections to the house which originated it, or, if the legislature has adjourned, to the secretary of state. Thus he cannot silently veto any bill.

Powers of Congress. Congress is given certain specified powers by the constitution.* Perhaps the most fundamental power of any government is the right to tax. Congress is given wide power in this regard. As we have already noticed (page 155), congress can deal directly with the individual or corporation in collecting funds with which to carry on the government. Perhaps the principal troubles between the states which led to the adoption of the constitution were those pertaining to foreign and interstate commerce. These difficulties at once disappeared when congress was given power to regulate this kind of commerce. Congress has power to

* These are given in section 8 of article I and are discussed in Chapter X.

declare war and to raise armies and navies. There are powers exercised by congress which are not specially mentioned in the constitution. These are called its implied powers (see page 199). There are a number of restrictions placed upon congress. No export tax may be levied, no title of nobility may be granted, no bill of attainder or *ex post facto* law shall be passed, etc. (See pages 97, 255.)

Congress and Legislature. There are a great many points of similarity* between the procedure in congress and in the state legislature. Each body is bicameral ("two-chambered"), the officers of the state senate correspond closely with the officers of the United States senate. A similar statement may be made concerning the state and federal houses of representatives; the method of passing laws is very similar, etc.

SEVENTH MONTH

7. Formation of the Nation.

- (a) Colonial Life.
- (b) Common Interests.
- (c) Articles of Confederation.
 - (1) Weaknesses.
 - (2) Attempts to remodel.
- (d) Constitution.
 - (1) Various Conventions.
 - (2) Final adoption.
 - (3) Preamble.
 - (4) Bill of Rights.
 - (5) Amended-How.
 - (6) Departments of Government.
 - (a) Legislative.
 - (b) Executive.
 - (c) Judicial.

8. Congress.

- A. Time and place of meeting.
- B. Composition.
 - (1) House.
 - (2) Senate.

* This is a good place for a thorough review of the procedure in the state legislature making comparisons with congress.

C. Sessions.

- (1) Regular.
 - (a) Long.
 - (b) Short.
- (2) Special.

D. Bills.

- (1) Definition.
- (2) Introduction.
- (3) Consideration by Committees.
- (4) Readings.
- (5) Passage or veto.

E. Records.

F. Voting.

G. House of Representatives.

- (1) Membership.
 - (a) How determined.
- (2) Organization.
- (3) Quorum.
- (4) Powers.
- (5) Work of Committee.
- (6) Seating of Members.
- (7) Members from South Dakota.
 - (a) How many?
 - (b) Who are they? (See p. 215.)
 - (c) What district does each represent?
 - (d) How long may they serve?
 - (e) How is the number of representatives from a state determined?
 - (f) Salary.

H. Senate.

- (1) Membership.
- (2) Officers.
- (3) Powers.
- (4) Executive session.
- (5) Committees.
- (6) Committees of the whole.
- (7) Members from South Dakota. (See p. 215.)
 - (a) Number.
 - (b) Name them.
 - (c) Represent the entire state.
 - (d) Term of Office.
 - (e) Salary.

I. Powers of Congress. (See also pp. 253, 254.)

- (1) Financial.
- (2) Commercial.
- (3) Military.
- (4) Implied.
- (5) Restrictions.

J. Compare Congress of the United States with State Legislature.

CHAPTER IX

THE FEDERAL EXECUTIVE AND JUDICIARY

President. "The executive power shall be vested in a President of the United States. He shall hold his office during the term of four years."

QUALIFICATIONS OF PRESIDENT. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. The Vice-President must have the same qualifications as the President.

Salary. The salary of the President is \$75,000 per year. In addition, congress pays certain expenses connected with the White House—the beautiful home furnished the President—and many other expenses. The total annual allowance for the use of the President sometimes amounts to over \$300,000. The Vice-President's salary is \$12,000.

PRESIDENTIAL SUCCESSION. In case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

Congress has provided that the cabinet officers shall succeed to the Presidency in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and Secretary of the Interior. None of these can succeed to the Presidency unless his appointment as a cabinet officer has been confirmed by the Senate and he has all of the necessary qualifications given in clause 4. The initial letters of these officers in order spell St. Wapni. This may help the memory.

OATH. Before he enter on the execution of his office he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect and defend the Constitution of the United States.”

Nomination of Candidates. Before we take up the plan of electing a President and Vice-President, it is necessary to understand the method used by political parties to nominate their candidates.

National Party Conventions. Each political party holds a national convention to nominate candidates for President and Vice-President, adopt a platform, and appoint a national central committee (one committeeman from each state and territory) to take charge of the campaign.

Delegates to National Conventions. The rule followed by the Republican and Democratic parties is to allow each state to send to the national convention two delegates for each representative and senator sent from that state to congress. Delegates are also sent from territories and from the District of Columbia.

In some states each party holds conventions to select delegates to the national conventions. This was the plan in South Dakota until 1912, when the delegates were chosen at the primary election the first Tuesday in June. Since South Dakota has three representatives and two senators in congress, the Republican party sends ten delegates from this state to its national convention and the Democratic party sends ten to its national convention.

Presidential Electors. The method provided by the constitution is to have each state choose, in any way the legislature may provide, a number of men (presidential electors) who are to choose the President and Vice-President. The idea of those who framed the constitution was that these presidential electors would be more

competent than the people to select suitable officers, and they supposed that the presidential electors would be independent in their choice. It immediately developed, however, that these presidential electors simply registered the choice of the people who selected them.

Electoral College. In all of the states the presidential electors are chosen at a general election. In 1912 the voters of New York elected forty-five presidential electors (New York has two senators and forty-three representatives). In the same election South Dakota chose five (the state having two senators and three representatives in congress). The group of presidential electors chosen by the state is called the "electoral college."

The following table shows the number of representatives and senators in congress, the electoral vote and the number of delegates to national conventions from each state:

	Rep.	Sen.	El. V.	Del.		Rep.	Sen.	El. V.	Del.
Ala.	10	2	12	24	Neb.	6	2	8	16
Ariz.	1	2	3	6	Nev.	1	2	3	6
Ark.	7	2	9	18	N. H.	2	2	4	8
Cal.	11	2	13	26	N. J.	12	2	14	28
Col.	4	2	6	12	N. M.	1	2	3	6
Conn.	5	2	7	14	N. Y.	43	2	45	90
Del.	1	2	3	6	N. C.	10	2	12	24
Fla.	4	2	6	12	N. D.	3	2	5	10
Ga.	12	2	14	28	Ohio	22	2	24	48
Ida.	2	2	4	8	Okla.	8	2	10	20
Ill.	27	2	29	58	Ore.	3	2	5	10
Ind.	13	2	15	30	Penn.	36	2	38	76
Ia.	11	2	13	26	R. I.	3	2	5	10
Kan.	8	2	10	20	S. C.	7	2	9	18
Ky.	11	2	13	26	S. D.	3	2	5	10
La.	8	2	10	20	Tenn.	10	2	12	24
Me.	4	2	6	12	Tex.	18	2	20	40
Md.	6	2	8	16	Utah	2	2	4	8
Mass.	16	2	18	36	Vt.	2	2	4	8
Mich.	13	2	15	30	Va.	10	2	12	24
Minn.	10	2	12	24	Wash.	5	2	7	14
Miss.	8	2	10	20	W. Va.	6	2	8	16
Mo.	16	2	18	36	Wis.	11	2	13	26
Mont.	2	2	4	8	Wyo.	1	2	3	6

Election Dates. (a) On the first Tuesday after the first Monday in November, in 1904, 1908, etc., the voters of the states elect presidential electors.

(b) On the second Monday in January the presidential electors of a state meet at the state capitol and cast their ballots for President and Vice-President. Three sets of ballots are made, one is sent by mail to the president of the senate, Washington, D. C., another set is sent by a messenger, and the third set is deposited with the nearest United States district judge. It is at this time that, strictly speaking, the President and Vice-President are elected, providing both receive majorities.

(c) On the second Wednesday of February the senate and the house of representatives meet in the hall of representatives. The president of the senate opens the ballots in the presence of both houses, and tellers appointed by the houses read the ballots and count them. In case no one receives a majority (over one-half) of the electoral votes for President or Vice-President, the house of representatives and senate decide the matter, as described in the constitution.

(d) On the fourth of March the men elected take the oath of office and assume their official duties.

Powers of the President

Legislative. The President has much to do with the getting of laws passed, both directly and indirectly. He may call congress into special session, he makes many recommendations to congress as to laws which he thinks should be passed, and he may approve or veto bills passed by congress (see p. 166).

"He shall from time to time give to the congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment,

he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all officers of the United States."

Executive. The President is the chief administrative officer of the nation. He is assisted by a large number of executive officials who are responsible to him as the head of the government. His control over subordinate officials is secured in part by his power of appointment and removal

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

He is commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States. The President's exercise of this power is usually through the Secretary of War and the Secretary of the Navy, and their administration of war and naval affairs is through the officers of the army and navy.

During the Civil War President Lincoln was sometimes compelled to deal somewhat directly with the commanding officers of the army. It is related that at one time when General McClellan seemed to be somewhat inactive, President Lincoln wrote him a note suggesting that he would like to borrow McClellan's army if the general did not have anything for the army to do!

Judicial. The President appoints the judges of the federal courts and thus is related very indirectly to this department of government. "He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." The supreme court has defined a pardon as "an act of grace which exempts the individual on whom it is bestowed

from the punishment which the law inflicts for a crime which he has committed." A reprieve is a temporary suspension of punishment; a pardon is a complete release.

It should be noted that the language of the constitution is general, hence the President's pardon may be absolute or conditional, may be issued before or during the trial of the accused, or after conviction and sentence. The constitution of South Dakota gives the Governor limited pardoning power, *after conviction*. (See pp. 107, 222, 266.)

Federal Positions. Positions under the United States, excepting President and Vice-President, are filled in one of four ways:

(a) Appointment by the President subject to the confirmation of the senate. United States judges, marshals, cabinet officers, ambassadors, etc., come in this class.

(b) Appointment by President alone. The President appoints his own private secretary and the clerks of his office.

(c) Appointment by heads of departments. The postmaster-general appoints all postmasters whose salaries are less than \$1,000.

(d) The civil service. "To regulate and improve the civil service of the United States," congress has provided for a commission of three men—not more than two of whom may be from the same political party, to have charge of the appointment of many clerks, teachers in Indian schools, skilled workmen, mechanics, etc. On June 30, 1909, there were 367,794 persons holding positions in the civil service, most of whom received their appointments through competitive examinations. At least twice a year examinations are held in each state and territory.

IMPEACHMENT. *Section 4.* The President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

History of Civil Service Reform. Excepting for a few changes made by Jefferson, no President until the time of Jackson (1829) removed federal government officials for political or partisan reasons. Then the "spoils system" was started, getting its name from the phrase, "To the victors belong the spoils." Jackson removed hundreds of officers to make room for his friends. Succeeding Presidents have done likewise, and when a President is elected from a political party different from the one in power we expect thousands of changes of officeholders. In 1883, the foregoing regulations relative to the civil service were adopted. The civil service law has done much to improve conditions, but there is still room for great improvement.

The President's Cabinet

Ten Departments. The work of the executive department of the United States has been subdivided, each division being called a "department." The heads of these departments constitute the President's cabinet.

Department of State. This was the first cabinet office created by congress, being called for a time the "department of foreign affairs." Though the name was changed, the chief duty of the Secretary of State is in connection with foreign affairs.

The Secretary of State is charged, under the direction of the President, with the duties appertaining to correspondence with the public ministers and the consuls of the United States and with the representatives of foreign powers accredited to the United States; and to negotiations of whatever character relating to the foreign affairs of the United States. He is also the medium of

correspondence between the President and the chief executives of the several states of the United States; he has the custody of the great seal of the United States, and countersigns and affixes the seal to all executive proclamations, to various commissions, and to warrants for the extradition of fugitives from justice. He is regarded as the first in rank among the members of the cabinet. He is also the custodian of the treaties made with foreign countries, and of the laws of the United States. He grants and issues passports and exequaturs (see Glossary) to foreign consuls in the United States are issued through his office. He publishes the laws and resolutions of congress, amendments to the constitution and proclamations declaring the admission of new states into the Union.*

The principal bureaus of this department are the diplomatic bureau, consular bureau, bureau of appointments (has custody of the great seal), bureau of citizenship (issues passports), bureau of indexes and archives, bureau of rolls and library (has custody of treaties and laws).

Department of the Treasury. The head of this department is called Secretary of the Treasury.

The Secretary of the Treasury is charged by law with the management of the national finances. He prepares plans for the improvement of the revenue and for the support of the public credit; superintends the collection of the revenue and directs the forms of keeping and rendering public accounts and of making returns; grants warrants for all moneys drawn from the treasury in pursuance of appropriations made by law and for the pay-

* The statements of official duties are quoted, with slight changes, from the Congressional Directory.

ment of moneys into the treasury; and annually submits to congress estimates of the probable revenues and disbursements of the government. He also controls the construction of public buildings; the coinage and printing of money; the administration of the life-saving, revenue cutter and the public health and marine hospital branches of the public service, and furnishes generally such information as may be required by either branch of congress on all matters pertaining to the foregoing.

The principal officers of this department are assistant secretaries, six auditors (who audit and settle all accounts with the other cabinet departments), the supervising architect, the comptroller of the treasury of the United States (having general charge over the public moneys that may be deposited in the treasury at Washington and in the sub-treasuries at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans and San Francisco, and in the national bank United States depositories), register of the treasury (look for the names of the last two officers on paper money), comptroller of the currency (having supervision of national banks), director of the mint, commissioner of internal revenue and superintendent of the life-saving service.

Department of War. The duties of the Secretary of War are as follows:

The Secretary of War is head of the war department and performs such duties as are required of him by law or may be required of him by the President concerning the military service.

He is charged by law with the supervision of all estimates of appropriations for the expenses of the depart-

ment, including the military establishment; of all purchases of army supplies; of all expenditures for the support, transportation and maintenance of the army and of such expenditures of a civil nature as may be placed by congress under his direction.

He also has supervision of the United States military academy at West Point and of military education in the army, of the board of ordnance and fortification, of the various battlefield commissions, and of the publication of the official records of the war of the rebellion.

He has charge of all matters relating to national defense and seacoast fortifications, army ordnance, river and harbor improvements, the prevention of obstructions to navigation and the establishment of harbor lines; and all plans and locations of bridges authorized by congress to be constructed over the navigable waters of the United States require his approval.

Department of Justice. The Attorney-General is the head of the department of justice and the chief law officer of the government. He represents the United States in matters involving legal questions; he gives his advice and opinion, when they are required by the President or by the heads of the other executive departments, on questions of law arising in the administration of their respective departments; he appears in the supreme court of the United States in cases of especial gravity and importance; he exercises a general superintendence and direction over United States attorneys and marshals in all federal judicial districts in the states and territories, and he provides special counsel for the United States whenever required by any department of the government.

Postoffice Department. The Postmaster-General is the executive head of the federal postal service. He appoints

all officers and employes of the postoffice department, except the four assistant postmasters-general and the purchasing agent, who are presidential appointees. With the exception of postmasters of the first, second and third classes, who are likewise presidential appointees, he appoints all postmasters and all other officers and employes of the service at large. Subject to the approval of the President, he makes postal treaties with foreign governments. He awards and executes contracts and directs the management of the foreign mail service. He is chairman of the board of trustees of the postal savings system.

There are four assistant postmasters-general. The first has charge of the divisions of postmasters' appointments, salaries and allowances and city delivery. The second has supervision over railway adjustments, foreign mails, railway mail service, inspection and equipment. The third has charge of finance, stamps, money orders, registered mail and classification of mail matter. The fourth directs the work of the rural mails, supplies and "dead letters."

Department of the Navy. The Secretary of the Navy performs such duties as the President of the United States, who is commander-in-chief, may assign him, and has the general superintendence of construction, manning, armament, equipment and employment of vessels of war.

Department of the Interior. The Secretary of the Interior is charged with the supervision of public business relating to patents for inventions, pensions and bounty lands, the public lands and bureau of mines, national parks, and the supervision of certain hospitals and institutions in the District of Columbia. He also exer-

cises certain powers and duties in relation to the territories of the United States. The commissioner of education collects statistics pertaining to education, has general charge of the education of the native children in Alaska and administers the endowment fund for the support of agricultural colleges.

Department of Agriculture. The secretary exercises personal supervision of public business relating to the agricultural industry. He appoints all the officers and employes of the department with the exception of the assistant secretary and the chief of the weather bureau, who are appointed by the President, and directs the management of all the bureaus, divisions, offices and the forest service embraced in the department. He exercises advisory supervision over agricultural experiment stations, which receive aid from the national treasury; has control of the quarantine stations for imported cattle, of interstate quarantine rendered necessary by sheep and cattle diseases, and of the inspection of cattle-carrying vessels, and directs the enforcement of the meat inspection and food and drug laws under which the inspection of domestic and imported food products is carried on. He is charged with the duty of issuing rules and regulations for the protection, maintenance and care of the national forest reserves. He also is charged with carrying into effect the laws prohibiting the transportation by interstate commerce of game killed in violation of local laws and excluding from importation certain noxious animals, and has authority to control the importation of other animals.

Department of Commerce. The Secretary of Commerce is charged with the work of promoting the commerce of the United States, and its mining, manufactur-

ing, shipping, fishery and transportation interests. His duties also comprise the investigation of the organization and management of corporations (excepting railroads) engaged in interstate commerce; the gathering and publication of information regarding labor interests and labor controversies in this and other countries; the administration of the lighthouse service, and the aid and protection to shipping thereby; the taking of the census, and the collection and publication of statistical information connected therewith; the making of coast and geodetic surveys; the collecting of statistics relating to foreign and domestic commerce; the inspection of steamboats and the enforcement of laws relating thereto for the protection of life and property; the supervision of the fisheries as administered by the federal government; the supervision and control of the Alaskan fur, seal, salmon and other fisheries; the jurisdiction over merchant vessels, their registry, licensing, measurement, entry, clearance, transfers, movement of their cargoes and passengers, and laws relating thereto, and to seamen of the United States; the regulation of the enforcement and execution of the act of congress relating to the equipment of ocean steamers with apparatus and operators for wireless communication; the custody, construction, maintenance and application of standards of weights and measurements.

Secretary of Labor. The secretary of labor looks after those matters which are connected with the welfare of labor. He has supervision of the following bureaus: Immigration, Naturalization and Labor, Statistics and Children's Bureau.

BOARDS, COMMISSIONS, AND INSTITUTIONS. In addition to the ten executive departments there are several boards, commissions,

and institutions acting independently of the cabinet officers. Among these are the Interstate Commerce Commission, the Civil Service Commission, the Isthmian Canal Commission, International Waterways Commission, the Geographic Board, the National Botanic Garden, the Congressional Library, the Government Printing Office, the International Bureau of American Republics, and the Smithsonian Institution.

Diplomatic Service. Affairs between nations are usually conducted by ambassadors or ministers which each country sends to other countries to represent it. The diplomatic representatives of the United States are of four grades, a. Ambassadors. b. Ministers (called "envoys extraordinary and ministers plenipotentiary," see dictionary). c. Ministers resident. d. Charges d'affairs.

The United States sends ambassadors to Great Britain, France, Germany, Russia, Italy, Austria, Hungary, Mexico and other leading nations, and sends ministers to other countries. The principal difference between ministers is in rank and salary.

Consular Service. Consuls are sent to foreign cities to look after commercial interests. They report to us any inventions, changes in laws, or other conditions which may affect our commerce. Lists of all goods sent from foreign ports to the United States are given to the consul as a means of keeping account of foreign commerce and duties on imports.

Arbitration. Nations are as likely to have disputes as individuals, and when international differences arise they cannot always be settled readily. Sometimes the matters are referred to a commission for adjustment. The commission is usually composed, in part at least, of persons from nations other than those having the dispute. This process of adjusting differences is called arbitration.

In 1899 a permanent international court of arbitration was established at The Hague, Netherlands. The United States and Mexico were the first countries to use this court to settle disputes.

Arbitration treaties have been made between the United States and the leading nations of the world. In each of these a mutual agreement is made between the United States and the foreign nation to submit matters in dispute to arbitration and, in most cases, at least, not to go to war until a year has been spent in endeavoring to settle the affair by arbitration. The United States occupies the proud position of leadership in the world in efforts to preserve peace and good will on earth.

Treaties. When this country wants to make a treaty with a foreign nation our Secretary of State proposes one to the ambassador or minister from that country. The foreign minister at Washington communicates with his secretary of state, and if a treaty is made it is signed by our Secretary of State and the foreign minister and then sent to the Senate for approval. The Secretary of State keeps in close communication with the President throughout the proceedings.

A treaty is usually named from the persons who negotiated it, the one who proposed it being given first and this indicates where the treaty was made. Thus the famous treaty of 1842 between the United States and Great Britain which settled our dispute as to the north-eastern boundary and provided for stopping the slave trade and for extraditing criminals, is called the Webster-Ashburton treaty. From this we know that Webster was our Secretary of State, Ashburton was Great Britain's minister to the United States, and the negotiations for the treaty were carried on in Washington.

Sometimes special commissions are appointed to negotiate treaties. This is usually done for treaties of peace,

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

This year of 1910 is drawing to a close. The records of population and harvests which are the index of progress show vigorous national growth and the health and prosperous well-being of our communities throughout this land and in our possessions beyond the seas. These blessings have not descended upon us in restricted measure, but overflow and abound. They are the blessings and bounty of God.

We continue to be at peace with the rest of the world. In all essential matters our relations with other peoples are harmonious, with an ever-growing reality of friendliness and depth of recognition of mutual dependence. It is especially to be noted that during the past year great progress has been achieved in the cause of arbitration and the peaceful settlement of international disputes.

Now, therefore, I, William Howard Taft, President of the United States of America, in accordance with the wise custom of the civil magistrate since the first settlements in this land and with the rule established from the foundation of this Government, do appoint Thursday, November 24, 1910, as a day of National Thanksgiving and Prayer, enjoining the people upon that day to meet in their churches for the praise of Almighty God and to return heartfelt thanks to Him for all His goodness and loving-kindness.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fifth day of
November, in the year of our Lord one thousand nine
hundred and ten and of the independence of the
United States the one hundred and thirty-fifth.

By the President:

Alvey A. Adee
Acting Secretary of State.

Wm. H. Taft

A Presidential Proclamation.

From "Government and Politics in the United States," by William B. Guitteau. Houghton, Mifflin Company.

and the negotiation is carried on in some neutral city. The treaty is then usually named from the city where it was negotiated. Any history of the United States names several such treaties, the most important of them being the treaty of Paris of 1783, which concluded peace between the United States and Great Britain. The second peace treaty with Great Britain was the treaty of Ghent, 1814.

The Federal Judiciary

An Independent System. As the state has its separate system of courts to enforce state laws so the federal government has its independent system of courts. There are three kinds of federal courts: (a) a supreme court which meets in Washington, D. C.; (b) nine circuit courts of appeal; and (c) about ninety district courts, one or more within each state (though having nothing to do with the interpreting or applying of state laws).

Jurisdiction. 1. The power of the federal judiciary extends primarily to cases arising under the constitution, laws and treaties of the United States. If a federal law is violated as in counterfeiting money, robbing the mail, etc., the accused would be tried in a federal court. Cases arising on Indian reservations are also tried in federal courts as the nation, and not the state, has complete control there.

The following classification of the other kinds of cases which may be tried in federal courts, with reasons therefor, was given by John Jay, the first chief justice of the supreme court:

2. The judicial power extends to all cases affecting ambassadors, other public ministers and consuls (from foreign countries to this country); because, as these officers are of foreign nations, whom this nation is bound to protect and treat according to the laws of nations, cases affecting them ought to be cognizable only by national authority;

3. To all cases of admiralty and maritime jurisdiction; because, as the seas are the joint property of nations, whose rights and privi-

leges relative thereto are regulated by the laws of nations and treaties, such cases necessarily belong to national jurisdiction;

4. To controversies to which the United States shall be a party; because in cases in which the whole people are interested, it would not be equal or wise to let any one state decide and measure out the justice due to others;

5. To controversies between two or more states; because domestic tranquillity requires that the contentions of states should be peacefully terminated by a common judicatory, and because, in a free country, justice ought not to depend on the will of either of the litigants;

6. To controversies between a state and citizens of another state; because, in case a state—that is, all the citizens of it—has demands against some citizens of another state, it is better that she should prosecute these demands in a national court than in a court of the state to which those citizens belong, the danger of irritation and criminations arising from apprehensions and suspicions of partiality being thereby obviated;

7. To controversies between citizens of the same state claiming lands, under grants of different states; because, as the rights of the two states to grant the land are drawn into question, neither of the two states ought to decide the controversy;

8. To controversies between a state or the citizens thereof, and foreign states, citizens, or subjects; because, as every nation is responsible for the conduct of its citizens toward other nations, all questions touching the justice due to foreign nations or people ought to be ascertained by and depend on national authority.”

Chisholm vs. Georgia. This was a famous case which occurred soon after the constitution went into effect. A man named Chisholm of North Carolina sued the state of Georgia in a United States court. The case was appealed to the supreme court in 1793, it being claimed that the constitution did not give federal courts power to try a case in which a state was sued by a citizen of another state. The supreme court decided that clause six in the foregoing list of powers clearly gave the federal courts a right to try such case. This decision caused much dissatisfaction with that clause, as it was felt that a state ought not to be compelled to answer in court to summons by an individual. As a consequence the eleventh amendment to the constitution was adopted in 1798.

AMENDMENT XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

APPOINTMENT AND SALARIES. All federal judges are appointed by the President, with the approval of the Senate, for life and may be removed only by impeachment process. At the age of seventy a judge may retire on full pay if he has served ten years.

Their salaries are as follows, Chief Justice of the supreme court, \$15,000; Associate Justices, \$14,500; Circuit Judges, \$7,000; District Judges, \$6,000.

Supreme Court. There are nine justices in this court, a chief justice and eight associate justices. As in the case of the other federal judges they are appointed by the President for life, subject to removal by impeachment process. Five must unite in a decision. The jurisdiction of this court is as follows:

Original. In all cases affecting ambassadors, other public ministers and consuls and those in which a state is a party.

Appellate. In other cases appealed from the lower courts.

Constitutionality. The supreme court has power to decide when a law or procedure conforms to the constitution of the United States (see p. 127).

Circuit Court of Appeals. To relieve the supreme court of many petty cases appealed to it from lower United States courts, in 1891 congress created this court to try them. Thus a case involving the patent laws may be appealed from a lower United States court to the circuit court of appeals instead of to the supreme court. This court consists of three judges, two of whom are a quorum. The judges may be supreme court justices, or circuit court judges, or, in absence of these, district court judges. Circuit courts of appeals are held in var-

ious parts of the United States, from Boston to San Francisco.

The United States is divided into nine circuits and each of the supreme court justices is supposed to exercise some supervision over a circuit. South Dakota is in the eighth circuit, which embraces Minnesota, Iowa, Missouri, Arkansas, Nebraska, Colorado, Kansas, Oklahoma, Utah, Wyoming, and New Mexico, besides both Dakotas. There are four circuit judges in this circuit.

Prior to January 1, 1912, there were circuit courts having original jurisdiction in certain kinds of cases and presided over by circuit judges. The judges, however, were kept so busy acting as judges of circuit courts of appeals that they had no time to try any original cases, all such cases being turned over to the district courts. The circuit court was therefore abolished, though the nine circuits and twenty-nine judges were retained to provide for the United States courts of appeal.

United States District Court. The United States is divided into districts for judicial purposes. In 1912 there were eighty-nine districts. South Dakota is one district, Minnesota is divided into two, Iowa two, etc. The United States judge for the district of South Dakota is Hon. James D. Elliott. He holds terms of court at Aberdeen, Sioux Falls, Pierre, and Deadwood. Federal cases arising in South Dakota are tried in one of these cities.

This court has original jurisdiction only and cases may be appealed from it to the circuit court of appeals or to the supreme court of the United States. The cases commonly tried in the United States district court comprise crimes committed on Indian reservations, violations of the United States revenue laws, postal laws, bankruptcies, patents, copyrights, etc. They also include lawsuits between citizens of different states, providing the sum of controversy exceeds \$2,000. Licenses to practice

in the courts of the United States are granted by this courts (see p. 128). Cases in bankruptcies are usually settled by referees in bankruptcies appointed by the district judge (see p. 195).

United States *attorneys* and *marshals* are appointed for each district. Their duties are much like those of state's attorneys and sheriffs in the counties (see pp. 72, 75). The former officials have to do only with violations of United States laws, the latter with violations of state laws. Deputies are appointed as may be needed.

Court Commissioners are appointed by the district judge at convenient places and have power to examine into accusations and decide whether a person who is accused of violating a United States law shall be held for trial by the United States district court.

Special Federal Judges. The *court of claims* consists of five judges and has power to try cases involving claims against the United States, not including pensions and a few other kinds. The *court of commerce* consists of five judges and tries cases involving interstate commerce. *Court of Customs Appeals.* This is a special federal court established to pass upon appeals from the decisions of revenue officers as to duties on imports. The courts of the District of Columbia and of territories are also special federal courts having jurisdiction within the District or territories.

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state the trial shall be at such place or places as the congress may by law have directed."

In 1791 the following amendments to the constitution were adopted. All of the provisions apply to United States courts but *do not apply to state courts*:

AMENDMENT V. No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

AMENDMENT VI. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law.

AMENDMENT VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

EIGHTH MONTH

9. Executive Department.

A. Officers.

(1) Elective.

(a) President.

- (1) Qualifications.
- (2) Election.
- (3) Duties.
- (4) Term.
- (5) Salary.
- (6) Presidential succession.

(b) Vice-President.

- (1) Qualifications.
- (2) Duties.
- (3) Term.
- (4) Salary.

(2) Appointive.

A. Cabinet.

- (1) Secretary of State.
- (2) Secretary of Treasury.
- (3) Secretary of War.
- (4) Secretary of Navy.
- (5) Postmaster-General.
- (6) Secretary of Interior.
- (7) Secretary of Agriculture.

- (8) Secretary of Commerce.
 - (9) Secretary of Labor.
 - (10) Attorney General.
 - (11) Duties of each.
 - B. Diplomatic Service.
 - (1) Ambassadors.
 - (2) Ministers.
 - (3) Charge d'affairs.
 - (4) Duties of each.
 - C. Consular Service.
 - (1) Duties.
 - B. Civil Service Commission (See p. 174).
 - (1) Number of members.
 - (2) Duties.
 - (3) History of Civil Service Reform.
 - E. Interstate Commerce Commission (See p. 193).
 - (1) Number of members.
 - (2) Duties.
10. Judicial Department.
- A. Supreme Court.
 - (1) One Chief Justice.
 - (2) Eight Associate Justices.
 - (a) Term of office.
 - (b) Salary.
 - (3) Jurisdiction.
 - (a) Original.
 - (b) Appellate.
 - (c) Interpreter of Constitution—Powers of Congress.
 - B. Circuit Court of appeals.
 - (1) Judges.
 - (a) Chief Justice or an Associate Justice.
 - (2) Circuit Judges.
 - (3) District Judges.
 - (4) Jurisdiction.
 - (a) Appellate only.
 - C. Circuit.
 - (1) Number of.
 - (2) South Dakota in the Eighth Circuit.
 - D. District Courts.
 - (1) Judges.
 - (2) Number of Districts.
 - (a) About 90.
 - E. Court of Claims.
 - F. Court of Customs and Appeals.
 - G. District of Columbia Courts.
 - H. National Judicial Powers.
 - I. Juries (See p. 134).
 - (1) Grand.
 - (2) Petit.
 - (3) Duties of each.

CHAPTER X

NATIONAL POWERS AND DUTIES

Powers of Congress

Taxes. A tax is a charge or burden laid upon persons, processes, or property to meet the needs of the government. A government could not long exist without the power of taxations, nor could civilization be maintained without schools, roads, bridges, public buildings and a thousand other things which minister to public necessities. The government must have money with which to pay its debts and obligations, provide for the defense and promote the welfare of the people.

POWERS OF CONGRESS. *Section 8.—1.* The congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States (See p. 253).

Direct Taxes. According to interpretations of the Supreme Court of the United States, direct* taxes include (a) poll taxes, (b) taxes on land and personal property, and (c) taxes on incomes. All other kinds are indirect. *Since 1861 congress has not levied any direct taxes excepting on incomes.* The principal indirect taxes are (a) duties on imported goods, and (b) internal revenue.

Duties. These are sometimes called customs duties and the place where they are collected is called a "customs house." A list of the duties charged on imported goods is called a *tariff*. A tariff for revenue only is one

* The state, county, township, city, town and school taxes discussed in chapters II and III are direct taxes levied by state law and with these the federal government has nothing to do.

in which duties are levied on only those goods which we do not produce and must import, such as coffee. A protective tariff is one levied on goods with which we compete with other nations in producing. A tariff for revenue with incidental protection is one designed mainly for revenue, but incidentally to protect the producer in this country. All of our tariffs since 1816 have, in reality, been protective tariffs, some higher than others and some "protecting" more than others. Most of the income for the support of the federal government comes from duties.

Internal Revenue. The United States levies taxes on the manufacture and sale of liquors, tobacco and a few other articles. The internal revenue office for collecting these taxes in the Dakotas is located in the federal building in Aberdeen.

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Interstate Commerce. Goods or passengers starting in one state and going into another state constitute interstate commerce. Intrastate commerce (Lat. *inter*, between; *intra*, within) is that which is within a state and regulated by the state. In 1887 congress attempted to correct some evils in interstate commerce by passing laws regulating railroads and by creating an *interstate commerce commission* to enforce the laws. Several additional laws have been passed enlarging the powers of this commission, especially in regulating railway rates. In 1910 congress created a *court of commerce* to interpret and apply the law to cases that arise. There are five judges in this court.

4. To establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

Naturalization. The process by which a foreigner, or alien, becomes a citizen is called naturalization.

Declaration of Intentions. The alien must declare upon oath before a United States court or a state (or territorial) circuit court that it is his intention in good faith to become a citizen of the United States and reside therein and to renounce forever all allegiance and fidelity to any foreign prince or state, and particularly to the one of which he may at the time be a citizen or subject. These are commonly called the "first papers."

Citizenship Papers. Not less than two years nor more than seven years after the first papers are issued the alien must petition for his final papers. His petition must be supported by the affidavits of two citizens of the United States, who have personally known him to be a resident of the United States at least five years and of the state one year. It must be shown to the court (1) that he has behaved as a person of good moral character, well disposed to good order and to the principles of the constitution; (2) that he is not a disbeliever in organized government (an anarchist); (3) that he is not a believer in polygamy; and (4) that he can speak the English language. He then takes an oath in open court that he will support the constitution of the United States and again renounces all foreign allegiance. His citizenship papers are then issued to him.

An alien soldier of the United States army may be admitted to citizenship on one year's residence. An alien who has served in the navy for five years may be admitted to citizenship without taking out his first papers. An American woman who marries a foreigner takes the nationality of her husband. When a man becomes naturalized, his wife and minor children, if living in this

country, also become naturalized. The naturalization of Chinese is expressly prohibited. The people of the Philippine Islands are not citizens of the United States, though they are entitled to full protection under the constitution.

Forfeiture. If a naturalized citizen makes his home in any foreign country within five years of his naturalization he at once forfeits his citizenship, unless he is an official of the United States.

Citizenship and Suffrage. The United States decides who may become citizens and the state decides who may vote. The privilege of citizenship and the privilege of voting are entirely separate. In South Dakota and in many other states aliens who have declared their intention of becoming citizens are permitted to vote (see Article VII of the Constitution).

Bankruptcy. If a person cannot pay his debts he may apply to a referee in bankruptcy, appointed by the United States district court and have his property sold and the money divided among his creditors. He may then "start over" again and is not legally bound to pay any portion of the debts which are not paid by the returns from sale of his property. He is morally bound to pay any honest debts, however, if he ever becomes able to do so. If a person owes \$1,000 or more, due and payable, which he refuses or is unable to pay, he may be compelled to have his property sold and the money divided among his creditors. This is called involuntary bankruptcy.

Exemptions. The United States bankruptcy law requires the observance of the laws of the different states which provide that certain property cannot be sold for debt unless the owner consents or unless there is a mort-

gage on the property. In South Dakota the main exemptions are as follows:

(a) The home, including not more than one hundred and sixty acres, if in the country, or one acre if in town. If worth more than \$5,000, the house is sold and \$5,000 returned to buy another home with.

(b) Personal property to the value of \$300 for an unmarried person, or \$750 if the head of a family.

(c) The family Bible, text books, heirlooms, etc.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

Legal Tender. Legal tender is that money which must be accepted in payment of debts. If legal tender money is refused the debt is not discharged, but interest stops and the costs of any suit to recover the debt must be paid by the creditor. The following kinds of money are legal tender:

(a) Silver dollars; (b) gold coins; (c) United States notes ("greenbacks" issued during the Civil War and reissued since then); (d) United States treasury notes (first issued from 1890 to 1893); (e) smaller silver coins, to the value of ten dollars; and (f) nickels and pennies, to the value of twenty-five cents. United States notes are not legal tender for the payment of duties on imports or interest on the public debt.

The following kinds of money are not legal tender, but are received everywhere at full value: (a) gold certificates, (b) silver certificates, (c) national bank notes, and (d) federal reserve notes. The reason why this paper money is as good as legal tender money is because the treasurer of the United States will redeem any of it in legal tender money.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

Counterfeiting. This includes not only the illegal making or altering of money and securities of the United States, but also the passing of them or having them in one's possession with intent to pass them. Counterfeiting also applies to postage stamps, postal money orders, land warrants, etc., and to the coins and bonds of foreign countries. The punishment for counterfeiting as provided by laws enacted by congress is very severe.

7. To establish postoffices and post roads.

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

Copyrights. Books, charts, music, photographs, paintings, etc., may be copyrighted by sending copies to the copyright office, Library of Congress, Washington, D. C., with a fee of one dollar. No one may copy anything thus protected without the permission of the one who holds the copyright. A copyright privilege is valid for twenty-eight years and may be renewed for a similar period.

Patents. A patent secures to an inventor the exclusive right to manufacture and sell his invention for seventeen years. No one may make, even for his own use, an article that is patented, without the consent of the holder of the patent.

9. To constitute tribunals inferior to the supreme court.

10. To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

Piracy Is Robbery at Sea. The nation has exclusive jurisdiction over the portion of the sea extending three miles from the low-water mark. Letters of marque

(mark) and reprisal are commissions granted to private persons in time of war permitting them to seize in the name of the government the persons and property of the enemy. Persons with such commissions are called privateers and if captured must be treated as prisoners of war. Without the commission they would be treated as pirates and put to death. Privateering on land has long since been abandoned. In the war of 1898 with Spain, the United States refused to commission privateers on the sea and notified Spain that we would not respect any such commissions issued by that country.

In most countries war may be declared by the ruler. This is a power which may easily be abused by a monarch possessing false ideals of national honor or national aggrandizement. While congress has sole power to declare war, the President, as commander-in-chief of the army and navy of the United States may take such steps as practically to bring on a state of war.

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions.

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by congress.

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards and other needful buildings.

The District of Columbia. In 1783 some drunken soldiers made an attack on congress, then in session in

Philadelphia. The city and state authorities did not provide protection for congress, so when the new constitution was drawn up in 1787, clause 17 was inserted so that the federal government would not need to depend upon a state for the protection of the government officials. In 1790 the District of Columbia was acquired. It comprises seventy square miles and all of the area is covered by the city of Washington.

Government of the District. The affairs of the district are managed by a board of three commissioners. Two commissioners are appointed by the President for three years and the third is an officer of the engineering department of the army. One-half of the money needed to support the government is appropriated by congress; the rest is raised by local taxation. There are no elections in the district. Officeholders or employes of the government retain the right to vote in their home states.

There are many splendid government buildings in Washington, the capital of the United States. It is admitted by all that the largest and most beautiful capitol building in the world is ours. It covers over three and one-half acres of ground. The largest and most magnificent library building in the world is the Congressional Library. This building occupies nearly four acres of ground and has fifty-six miles of shelving for books. It contains nearly 2,000,000 books and pamphlets, besides hundreds of thousands of maps, charts, pieces of music, etc. The President's home is called the "White House."

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Express and Implied Powers. The constitution expressly states that congress can "raise and support armies," but while it does not state that a military school may be maintained, congress has considered it "necessary and proper" to establish one at West Point, New York. To maintain an army is an express power; to maintain a military academy is an implied power.

Shortly after the constitution went into operation, in 1789, a division of opinion arose as to what extent the federal government could exercise implied powers.

This led to the first division into national political parties (see Chapter XI). Clauses 1 and 18 are called "elastic" as they give congress many implied powers to provide for the "general welfare" and pass laws which are "necessary and proper."

Powers Denied Nation and State

Habeas Corpus. The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

This writ gets its name from the words found in the old Latin form, meaning, "You may have the body." It is issued by a court to a sheriff or other person holding someone else in custody, demanding that he bring the detained person before the court and show his authority for holding that person as prisoner. If sufficient and lawful reason can be shown, the prisoner is remanded to the custody of the sheriff or other person. If sufficient reason cannot be shown, the prisoner is released on bail or is liberated. This writ is sometimes used to liberate persons who are unlawfully held as insane or children in wrongful custody. Prisoners who think they are not lawfully detained may employ this writ to get an immediate hearing before a court.

Bill of Attainder. A bill of attainder is a legislative act which inflicts punishment without a judicial trial. Congress is prohibited from passing such a bill. Congress passes laws providing for the punishment of crime but never decides when the law has been violated, nor does it mete out punishment. This is the function of the courts.

Ex Post Facto Law. This kind of law is also unconstitutional (see p. 97).

Export Tax. No tax or duty may be levied on goods exported from the United States or from any state excepting what may be absolutely necessary for paying the expenses of inspection.

Titles of Nobility. Titles of nobility may not be granted by the nation or the state. A citizen of the United States may accept a title from a foreign government without forfeiting his citizenship. Any person holding a governmental position, however, may not accept a title or even a gift from a foreign government without the consent of congress.

NINTH MONTH

NATIONAL POWERS AND DUTIES.

A. Taxation.

- (1) Define.
- (2) Necessity for.
 - (a) Payment of debt.
 - (b) Provide for defense.
 - (c) Promote general welfare.
- (3) Methods.
 - (a) Direct.
 - (b) Indirect.
- (4) Kinds.
 - (a) District (See p. 24).
 - (b) Town or city (See p. 59).
 - (c) Township (See p. 43).
 - (d) County (See p. 76).
 - (e) State (See pp. 96, 97, 118).
 - (f) National.

B. Interstate Commerce Commission.

C. Letters of Marque and Reprisal.

D. Money and coinage.

- (1) National coinage.
- (2) What is money?
- (3) Purpose of money.
- (4) Kinds of money.
 - (a) Coin.
Kinds.
 - (b) Paper.
Kinds.

E. Requisitions (See Glossary).

F. Extraditions (See p. 107).

G. Right of Eminent Domain (See Glossary).

H. Formation of New States.

I. Acquisition of New Territory.

J. Prohibition on the Nation.

- (1) Ex-Post-Facto-Laws.
- (2) Titles.
- (3) Attainder.
- (4) Habeas Corpus.

If time permits a review of the work should be given.

“That the nation shall, under God have a new birth of freedom, and that government of the people, by the people, for the people, shall not perish from the earth.”—Lincoln.

CHAPTER XI

NOMINATIONS AND ELECTIONS

Popular Elections. That those who are clothed with the power of carrying on the government may be required to administer their duties for the benefit of the public rather than for their own interest, we elect them for a limited time. In some cases, as in cities under commission, the people may recall an officer who is not considered a competent or faithful public servant.

Political Parties. Differences of opinion give rise to political parties. This is illustrated in the first division of the people into political parties after the adoption of our federal constitution. Washington was unanimously elected President. There were no national parties, the nearest approach to them being the division of sentiment as to whether the constitution should be adopted or not, and this difference of opinion rapidly disappeared. John Jay was then in charge of the department of foreign affairs and continued after Washington became President. When congress provided for a secretary of foreign affairs (later called secretary of state) Washington asked Jay to accept the office. Jay refused the appointment, preferring a later one as chief justice of the supreme court, and Washington offered it to Thomas Jefferson, then minister to France, and presumably the next best informed person on foreign affairs. Robert Morris, who had charge of the finance department before the constitu-

tion took the place of the articles of confederation, was offered the position of secretary of the treasury. He declined, but recommended a younger man, Alexander Hamilton. Washington had a very high opinion of this brainy young man and appointed him. Henry Knox was continued as secretary of war, and Edmund Randolph was appointed to fill the new office of attorney general. Washington considered the chief justice of the supreme court, John Jay, and the Vice-President, John Adams, his official advisers as well as members of his cabinet. These men were not selected from opposite political parties, as was once taught, but new political parties soon arose because of differences of opinion which developed among these men as to the policy and plan of carrying on the government. It soon appeared that Jefferson and Hamilton were the real leaders in political action, Jefferson favoring a strict adherence to the constitution and being very democratic, and Hamilton being aristocratic and favoring a liberal or "loose" interpretation of the constitution.

Hamilton recommended that congress charter a United States bank, somewhat like the Bank of England, of which the government should be a stockholder and part manager. Jefferson opposed the plan because he could not find that any power to establish a bank was given to congress in the constitution. Hamilton argued that the constitution gave congress power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," among which was the power "to lay and collect taxes," "to pay the debts," etc. The basis for two political parties, bound to arise among thinking men, grew out of the differences between these two leaders who, as Jefferson said, were "pitted against each other every day in the cabinet like two fighting cocks."

The construction or interpretation given to the constitution by Hamilton and his followers is called "loose," "elastic," or "broad," and we say they were "loose constructionists." They called themselves Federalists, the name which had previously been applied to those who favored the new constitution. Jefferson and his followers were said to be "strict constructionists," and the followers which rapidly formed about them in opposition to the Federalists were called by themselves Republicans, by their opponents, Democrats.

In 1793 France declared war on Great Britain. We had made a treaty alliance with France in 1778 by the terms of which both the United States and France agreed to protect forever each other's possessions in America. France expected us to help her defend her West India islands. Washington asked his advisers whether the treaty was in force. Jefferson said "yes," and, strictly interpreting the treaty, he was doubtless right, though such an interpretation meant another war with Great Britain. Hamilton said "no," our national existence depended upon our keeping out of European wars. Washington adopted Hamilton's view and issued his famous neutrality proclamation, which was of untold benefit to us. In those days our national politics took color from the great struggle then going on in Europe, the Federalists siding with England and the Republicans taking the side of the French. A visitor to the United States at that time remarked that he found "many who favored France, many who favored England, but none who favored the United States."

Group Action. Every person is greatly influenced by the opinions of the community and of leaders. What one thinks is proper to wear, to eat, to say, and to do, is not due so much to his independent judgment as to the influence of public opinion. There are certain sentiments, beliefs, and standards of action which the group has, and these shape to a large extent the sentiments and convictions of each individual. As people become more civilized they think and act more in common. This is called the "solidarity of the race." We say that we "belong" to a certain church, to this political party, or to that society or lodge. And we do "belong" to them—are governed by them in our thoughts and actions—more than we appreciate. Nearly all people who are not members of any church really belong to the great Christian world of men and women, are following the same ideals, cherish the same hopes, and contribute to the same worthy causes. Now this is just as true of political parties as it is of churches. Our political beliefs and utterances, our votes and legal actions, are due to the great body of beliefs, of attitudes, and of desires as to government which society as a whole has developed. *"I am half of what I am because others are what they are."*

Need for Political Parties. Political parties are needed in developing ideals of government, standards of public action and public welfare, just as churches are needed for developing religious ideals and standards of conduct and morality. Each is a social instrument for carrying on a great work. The church is much more pure, and its defects are much fewer, but the very fact that politics is so often corrupt, insincere, and base, is the best reason in the world why all true citizens should co-operate more actively so that justice and civic righteousness may rule. As long as political parties are corruptly managed, so long will our government be dishonest, and influences for evil will flourish. It is just as important, perhaps even more important, that people take an earnest and intelligent interest in nominating candidates as in electing officials; in forming wholesome public sentiment on temperance and honesty, as in seeing to it that the liquor laws are enforced and that robbery is punished. A law which is not supported by public sentiment will be a "dead letter," but a public sentiment will often enforce action when there is no support of law, or it will soon secure legal support.

The Independent Voter. While party support and co-operation is necessary to get good government, the voter should not be a slave to his party. Most persons belong to the parties of their fathers and many have not the courage or intelligence to think and vote independently. They always vote the "straight party ticket," they are blind followers of political "bosses." Party support and party loyalty is a good thing, *but the public good should always be first,—a political party is only a means to good government.*

Nomination of Candidates

Caucus and Convention Method. Before 1907 candidates for office in South Dakota were nominated as follows: A caucus, or gathering of the voters of a political party in a township, town, or city ward, was held. This was also called the primary (Lat. *primus*, first). Here in open meeting delegates were selected to a county convention. The county convention selected delegates to a state convention, and this convention selected candidates for state offices, for congress, and, in presidential years, for presidential electors. The state conventions also selected delegates to a national convention which nominated candidates for President and Vice-President. Later in the summer caucuses were usually again held, delegates elected to county conventions, and these county conventions selected candidates for county offices. Each political party held its own caucuses and conventions. It was so easy for a skillful politician and a few interested persons to control the caucus and the convention that very often men were nominated regardless of their fitness and honesty. A few political leaders usually controlled the political party and the term "political boss" came to be applied to many of them.

Primary Elections. Many people believed that if the conventions were done away with, so far as possible, and the voters of a party could vote directly for candidates, there would be less opportunity for political corruption.

The legislature of 1907 provided for a new system of party nominations known as the primary election. This has been greatly modified since then. The present plan was adopted by the legislature in 1915 and modified by a special session of the legislature in 1916. A primary election is held on the fourth Tuesday in May, 1916, and

every two years thereafter. Republicans are given ballots on which are printed the names of all Republicans who are candidates for state and county offices. Democrats are given ballots containing the names of Democrats who seek the nomination of their party, and Prohibitionists, Socialists, or any other political parties have their own separate tickets. Each person who wishes to vote at the primary must have duly registered in advance as a member of the political party of his choice. This law does not apply to municipal, town, township or school district officers but may be adopted by a majority vote in any election held therein.

To have his name printed on one of these ballots, a candidate must get a petition signed by from one per cent to three per cent of the voters of his party in the state, if it is a state office, or from three per cent to five per cent in the county if it is a county office. While this is called a primary *election*, it is *not an election to office*, but simply to a place in the column of party candidates on the ballot used in the November election.

EXAMPLE. Suppose that A, B, and C are all Republicans and that each seeks to get the nomination of his party for county judge. Each one must have a petition signed by not less than three per cent of the Republicans of the county, nor more than five per cent of them (the number is determined from the number of Republican votes for governor in that county at the last election). These petitions are filed with the county auditor who must have their names printed on the Republican ticket. At the May primary election the Republicans will elect A, B, or C as their party candidate for county judge. Suppose A is chosen. In the November election, then, A's name will appear on the ballot as the Republican candidate for this office. In a similar way a Democratic candidate for county judge is nominated by the Democrats at the May primary election, and thus each of the other political parties nominates its candidates. Now at the *November election* the voter is given a ballot containing the names of all of those candidates. If he wishes to vote for the Republican candidate for county judge, he makes an X before the name of A, the Republican candidate. Or, if he wishes to vote for the candidate of some other party, he may do so.

At this May primary election in presidential election years delegates are elected to the national conventions which nominate candidates for President and Vice President. Each political party elects twice as many delegates to the national convention as there are representatives and senators in congress from the state. This is more fully explained on page 170.

The Campaign. Each political party usually has a national committee, made up of one member from each state and territory; a state committee, made up of one member from each county; a county committee, made up of one member from each voting precinct, and a local committee for each township, town, and city. These committees look after party interests, employ speakers, send out campaign literature, and, in general, have charge of the political campaign. In the heat of an election contest many things are said and done that would not occur ordinarily. In former days there used to be torch light processions, "barbecues" where whole roasted oxen were eaten and intoxicating liquors were freely dispensed, and other spectacular events. The appeal today is more to the intelligence of the voter and less to his prejudices.

Polling Places. A place to vote must be provided for each township, city, and town (if fifty voters petition for it). If there are more than five hundred voters in a precinct it may be divided. In cities there is one polling place for each ward. The room is usually divided off by a railing, within which are the judges of election having charge of the ballots and ballot boxes, and booths which are so arranged that each voter may enter one and mark his ballot secretly. There must be one booth for every fifty voters.

Judges of Election. The county commissioners appoint three voters from each voting precinct to act as

Republican Party	Democratic Party	Prohibition Party	Socialist Party
<input type="radio"/> Elector of President and Vice President of the United States— OSCAR OLSEN	<input type="radio"/> Elector of President and Vice President of the United States— MILLARD AASVED	<input type="radio"/> Elector of President and Vice President of the United States— C. M. DAHLBERG	<input type="radio"/> Elector of President and Vice President of the United States— M. J. FOLEY
<input type="radio"/> Elector of President and Vice President of the United States— H. C. PRESTON	<input type="radio"/> Elector of President and Vice President of the United States— JOHN P. BIEHN	<input type="radio"/> Elector of President and Vice President of the United States— H. T. HURD	<input type="radio"/> Elector of President and Vice President of the United States— WALTER A. WILLIAMS
<input type="radio"/> Elector of President and Vice President of the United States— L. T. VAN SLYKE	<input type="radio"/> Elector of President and Vice President of the United States— A. E. HITCHCOCK	<input type="radio"/> Elector of President and Vice President of the United States— JOHN NOLT	<input type="radio"/> Elector of President and Vice President of the United States— WILLIAM RHODES
<input type="radio"/> Elector of President and Vice President of the United States— F. H. RUGG	<input type="radio"/> Elector of President and Vice President of the United States— ISAAC B. MATTHEWS	<input type="radio"/> Elector of President and Vice President of the United States— EARLE MCCAIN	<input type="radio"/> Elector of President and Vice President of the United States— HEBER FENNE
<input type="radio"/> Elector of President and Vice President of the United States— J. S. THOMSON	<input type="radio"/> Elector of President and Vice President of the United States— JAMES MEE	<input type="radio"/> Elector of President and Vice President of the United States— C. K. THOMPSON	<input type="radio"/> Elector of President and Vice President of the United States— RICHARD BUNNEY
<input type="radio"/> Representative in Congress— Second District CHARLES H. BURKE	<input type="radio"/> Representative in Congress— Second District C. BOYD BARRETT, SR.	<input type="radio"/> Representative in Congress— Second District W. J. EDGAR	<input type="radio"/> Representative in Congress— Second District E. FRANCIS ATWOOD
<input type="radio"/> Judge of the Supreme Court— First District— SAMUEL C. POLLEY	<input type="radio"/> Judge of the Supreme Court— Second District B. C. MATTHEWS		
<input type="radio"/> Judge of the Supreme Court— Second District JOHN HOWARD GATES			
<input type="radio"/> Judge of the Supreme Court— Third District CHAS. S. WHITING			
<input type="radio"/> Governor— FRANK M. BYRNE	<input type="radio"/> Governor— EDWIN S. JOHNSON	<input type="radio"/> Governor— O. W. BUTTERFIELD	<input type="radio"/> Governor— SAMUEL LOVETT
<input type="radio"/> Lieutenant Governor— E. L. ABEL	<input type="radio"/> Lieutenant Governor— O. D. ANDERSON	<input type="radio"/> Lieutenant Governor— ED COCHRAN	<input type="radio"/> Lieutenant Governor— B. H. WRIGHT
<input type="radio"/> Secretary of State— FRANK GLASNER	<input type="radio"/> Secretary of State— N. F. STEWART	<input type="radio"/> Secretary of State— GEO. F. SHELDON	<input type="radio"/> Secretary of State— LEROY HIXSON
<input type="radio"/> Attorney General— ROYAL C. JOHNSON	<input type="radio"/> Attorney General— W. A. LYNCH		
<input type="radio"/> State Auditor— HENRY B. ANDERSON	<input type="radio"/> State Auditor— J. P. CROAL	<input type="radio"/> State Auditor— W. J. LOUCKS	
<input type="radio"/> State Treasurer— A. W. EWERT	<input type="radio"/> State Treasurer— F. B. GANNON	<input type="radio"/> State Treasurer— W. J. HEDERLEIN	<input type="radio"/> State Treasurer— M. G. OPSAHL
<input type="radio"/> Commissioner of School and Public Lands— F. F. BRINKER	<input type="radio"/> Commissioner of School and Public Lands— GEORGE H. SMITH	<input type="radio"/> Commissioner of School and Public Lands— D. N. McCULLOUGH	<input type="radio"/> Commissioner of School and Public Lands— S. H. GOODFELLOW
<input type="radio"/> Superintendent of Public Instruction— C. G. LAWRENCE	<input type="radio"/> Superintendent of Public Instruction— L. M. POWERS	<input type="radio"/> Superintendent of Public Instruction— LOIS WILSON JELLIES	
<input type="radio"/> Railroad Commissioner— JOHN J. MURPHY	<input type="radio"/> Railroad Commissioner— L. C. CAMPBELL	<input type="radio"/> Railroad Commissioner— W. H. GIFFORD	<input type="radio"/> Railroad Commissioner— OLE VENJUM
<input type="radio"/> State Senator, 35th District— J. L. BROWNE	<input type="radio"/> State Senator, 35th District— C. A. RUSSELL	<input type="radio"/> State Senator, 35th District— A. J. TIFFANY	<input type="radio"/> State Senator, 35th District— OTTO H. DUNKER
<input type="radio"/> State Senator, 35th District— GEO. G. NORBECK	<input type="radio"/> State Senator, 35th District— E. J. MATHER	<input type="radio"/> State Senator, 35th District— ROBERT N. VON TOBEL	<input type="radio"/> State Senator, 35th District— GEO. N. MILLER
<input type="radio"/> State Representative, 32nd District— O. A. SWANSON	<input type="radio"/> State Representative, 32nd District— L. F. DINGER	<input type="radio"/> State Representative, 32nd District— ANDREW K. TOLLEFSON	<input type="radio"/> State Representative, 32nd District— HERMAN PRETZER
<input type="radio"/> State Representative, 32nd District— W. M. SCOTT	<input type="radio"/> State Representative, 32nd District— THOMAS M. ELLIOTT	<input type="radio"/> State Representative, 32nd District— GEO. A. PETERSON	<input type="radio"/> State Representative, 32nd District— M. E. GEHON
<input type="radio"/> State Representative, 32nd District— JNO. L. RUCKMAN	<input type="radio"/> State Representative, 32nd District— FRANK G. PERRY	<input type="radio"/> State Representative, 32nd District— A. W. MALLET	<input type="radio"/> State Representative, 32nd District— WM. WORTHY
<input type="radio"/> State Representative, 32nd District— W. J. TIFFANY	<input type="radio"/> State Representative, 32nd District— A. T. AMSDEN	<input type="radio"/> State Representative, 32nd District— R. J. DAY	
<input type="radio"/> County Treasurer— CLIFFORD A. LUM	<input type="radio"/> County Treasurer— JOHN CAVANAUGH	<input type="radio"/> County Treasurer— BURR JUMP	<input type="radio"/> County Treasurer— W. J. FACE
<input type="radio"/> County Auditor— J. J. ROBERTS	<input type="radio"/> County Auditor— F. E. COONS	<input type="radio"/> County Auditor— JOHN GREEN	<input type="radio"/> County Auditor— L. J. FARGO
<input type="radio"/> Sheriff— J. S. SHAFFER	<input type="radio"/> Sheriff— JOHN MAKENS		<input type="radio"/> Sheriff— EDWIN E. BIRDSEY
<input type="radio"/> Register of Deeds— S. S. MELLEN	<input type="radio"/> Register of Deeds— F. J. CROSS	<input type="radio"/> Register of Deeds— J. T. LUTZ	<input type="radio"/> Register of Deeds— E. D. STICKNEY
<input type="radio"/> Clerk of Courts— N. E. NELSON	<input type="radio"/> Clerk of Courts— H. A. MELGAARD	<input type="radio"/> Clerk of Courts— CHAS. J. LARSON	<input type="radio"/> Clerk of Courts— BENJ. DEMPSEY
<input type="radio"/> Superintendent of Schools— M. M. GUHIN	<input type="radio"/> Superintendent of Schools— EDITH MAY PIERSON	<input type="radio"/> Superintendent of Schools— BELLE LARSON	<input type="radio"/> Superintendent of Schools— L. M. GERHARD
<input type="radio"/> State Attorney— E. B. HARKIN	<input type="radio"/> State Attorney— E. C. RYAN		
<input type="radio"/> County Judge— EDWARD T. TAUBMAN	<input type="radio"/> County Judge— BOYD S. BECKINGTON		<input type="radio"/> County Judge— S. A. COCHRANE
<input type="radio"/> County Surveyor— C. P. WELLS			<input type="radio"/> County Surveyor— D. G. McLAUGHLIN
<input type="radio"/> Coroner— W. H. WILSON	<input type="radio"/> Coroner— J. L. HUEBL		

A typical ballot, such as was used in Brown County, Nov. 5, 1912. The instructions to voters at the top and a column for Independent candidates are omitted.

judges of election. They must appoint the persons named by different political parties, if the county committee of a political party does not name a judge, county commissioners use their own judgment. One of the judges is named as superintendent and he has charge of the erection of booths. The three judges appoint two clerks to assist them. Each judge and clerk must take an oath to perform his duties according to law and "to prevent fraud, deceit and abuse" in the election.

Ballots. The county auditor must provide ballots containing the names of candidates and separate ballots for proposed amendments to the constitution and laws to be voted on (by initiative or referendum). One hundred ballots are furnished each precinct for every fifty votes cast there at the preceding election. Sample ballots, printed on different colored paper, and instruction cards are also furnished by him. The ballots for amendments and laws contain simply the titles of those proposed with places for marking. The proposed amendments and laws are printed in advance of the election, so that he may be informed concerning them.

Method of Voting. The voter advances to the judges and is given a ballot (or ballots), having stamped on the back "Official Ballot," signed with the initials of one of the judges. He then goes to a booth and with a pencil or stamp marks it as he wishes to vote. He then folds it so that the stamp shows and hands it to a judge, announcing his name to the clerks. The judge deposits the ballot in the ballot box and the clerks check the person's name to show that he has voted.

A voter who is blind or physically unable to mark his ballot may be assisted by two of the judges belonging to different political parties. No electioneering (urging people to vote for certain candidates or propositions) is permitted inside the polling place or within fifty feet of it. Any voter may require leave of absence from his work for

two hours, without loss of pay, in order to vote. The voter must not make any private mark on his ballot by which it may be identified. This is to prevent people from selling their votes and then having something on the ballots to show that they voted as they promised.

Voting by Mail. South Dakota electors who are away from home may vote by mail at primary or general elections. To do so they must comply with all of the requirements provided by law for voting by mail.

Qualifications of Electors. An elector is one who may vote. The constitution of South Dakota (Article VII) provides that an elector must have the following qualifications:

1. Male resident of the state.
2. Twenty-one years of age.
3. A citizen of the United States or an alien who has declared his intention to become a citizen (see "Naturalization," p. 194).
4. Resided in the United States one year before the election, in the state six months, in the county thirty days, and ten days in the election precinct where he offers his vote.

Woman Suffrage. Suffrage means the right to vote. Women do not have the right to vote in South Dakota except "at any election held solely for school purposes." To vote at a school election a woman must have qualifications (2), (3) and (4).

Disqualifications. The following persons may not vote in South Dakota:

1. Those who lack any one of the four qualifications.
2. Insane persons or those under guardianship.
3. A soldier of the United States army or sailor of the navy who may be stationed in the state, unless his home was here when he enlisted. A soldier or sailor or

any person employed by the United States who leaves the state in the discharge of his duties does not lose his residence but may return home at election time and vote. This is true of a student attending school.

4. "Nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civic rights."—Art. 7, Constitution.

5. A person convicted upon impeachment charges may be disfranchised (deprived of the right to vote) and disqualified from holding office.

6. An Indian who has not "severed his tribal relations," that is, who still lives on a reservation and is subject to the control of the agency. Such Indians are said to be "wards of the United States," and cannot buy or sell land, cattle, horses, or other property and cannot even kill their own cattle without permission of the agent on the reservation. This guardianship is necessary to protect them. Many of the Indians of South Dakota live in citizen communities and vote and hold property, and many are very prosperous.

Challenging. If it is believed that a person who offers to vote is not legally qualified, his right to vote may be challenged by one of the judges or by any other voter. The judges then explain to him the qualifications of a voter. If he declares he is qualified, he may be required to take an oath to that effect and may be required to sign it. A violation of an oath is called perjury and is a penitentiary offense.

Canvassing Returns. The polls are open, in general elections, from 8:00 o'clock A. M. until 5:00 P. M. When the polls are closed the judges open the ballot box and publicly count the ballots to see that there are not more ballots than the poll list (list of voters) shows. If

several ballots are found folded together they are destroyed. The votes for each candidate are then carefully counted, entered in the poll book, and certified by the judges and clerks. The votes and poll list are put in the ballot box, which is locked and sealed (with white paper seals having the names of the judges) and sent to the chairman of the county commissioners. If the election is for local offices, returns are sent to city council or town board. The key to the box and the poll book are sent to the county auditor. These votes are canvassed by the county auditor and a majority of the county commissioners (or the county treasurer, county judge and one county commissioner, none of whom could have been candidates at the election). The poll books are carefully looked over and a list is made of the votes received for the different candidates in the various polling places of the county. In this way they decide what county officers have been elected. The county auditor makes an abstract, or summary, of the votes cast for various candidates and sends it to the secretary of state (he also sends copies of the abstract of votes for state officers to the governor, and to the presiding judge of the supreme court). The state board of canvassers then adds up the votes from the various counties and decides who were elected to those offices which are filled by state-wide election.

Contested Election. If a defeated candidate thinks the votes have been incorrectly counted he may bring action in court to have the ballot boxes opened and the ballots all recounted.

THE SHORT BALLOT. There are so many candidates for so many offices that the average voter knows very little about any of them. Few men besides professional politicians can name even one-half of the men he has voted for after he has handed his ballot to the election judge, and of that half he knows very little. Because

of these conditions there has grown up a strong movement in the United States to elect only those officers who have general administrative powers, having them appoint such officers as have clerical or technical duties. According to this plan the county commissioners could appoint their own clerk (county auditor), a surveyor, coroner, register of deeds, etc. If we elected only a few officers at a time we would become far more familiar with their qualifications and our elections would be less dependent upon the political "boss" and political "machine,"—the people and not a small group of politicians would choose the officers.

LONGER TERM AND RECALL. In order that only a few officers be elected at one time, many people believe that it would be well to have some terms of office longer. To prevent the person who is elected for a long term from misusing his powers, it is proposed that the people shall have the right to recall an official as is now provided for in cities under commission (see Chapter III). The principles of the initiative and referendum, the primary election, the short ballot, and the recall are being very generally discussed at present.

Objections are made by many to the recall of judges, on the ground that they should be independent of public opinion, and thus free to decide questions involved in accordance with law, being better qualified by their knowledge of the law, and having a better opportunity by presiding at the trial of the case to learn all of the facts, than the public. It is argued, on the other hand, that if the people are qualified to put judges in office by a popular vote, they are equally well qualified to put them out of office in a similar manner.

APPENDIX

TABLES OF OFFICIALS

TERRITORIAL GOVERNORS

William Jayne.....	1861-63	William A. Howard.....	1878-80
Newton Edmunds.....	1863-66	Nehemiah G. Ordway.....	1880-84
Andrew J. Fautk.....	1866-69	Gilbert A. Pierce.....	1884-87
John A. Burbank.....	1869-74	Louis K. Church.....	1887-89
John J. Pennington.....	1874-78	Arthur C. Mellette.....	1889

DELEGATES TO CONGRESS

J. B. S. Todd	1862-64	G. G. Bennett.....	1879-81
W. A. Burleigh	1864-69	E. F. Pettigrew.....	1881-83
S. L. Spink.....	1869-71	J. B. Raymond.....	1883-85
M. K. Armstrong.....	1871-75	Oscar S. Gifford.....	1885-88
J. P. Kidder.....	1875-79	Geo. A. Mathews.....	1888-89

NOTE—Geo. A. Mathews was elected delegate to congress in November, 1888, his term to commence March 4, 1889. Congress did not convene until December following. Before that time statehood had been accomplished, and he was therefore never sworn in.

STATE GOVERNORS

Arthur C. Mellette.....	1889-93	Coe I. Crawford.....	1907-09
Charles H. Sheldon.....	1893-97	Robert S. Vessey.....	1909-13
Andrew E. Lee.....	1897-01	Frank M. Byrne.....	1913-17
Charles N. Herreid.....	1901-05	Peter Norbeck.....	1917-
Samuel H. Elrod.....	1905-07		

REPRESENTATIVES IN CONGRESS.

O. S. Gifford.....	1889-1891	J. A. Pickler	1889-1897
J. R. Gamble (a).....	1891-	J. E. Kelly.....	1897-1899
J. L. Jolley.....	1891-1893	C. H. Burke	1899-1907
W. V. Lucas.....	1893-1895	Philo Hall.....	1907-1909
R. J. Gamble.....	1895-1897	C. H. Burke.....	1909-1915
Freeman Knowles.....	1897-1899	Royal C. Johnson (2nd	
R. J. Gamble.....	1899-1901	Dist.)	1915-
E. W. Martin	1901-1907	C. H. Dillon (1st Dist.)..	1913-
W. H. Parker (b).....	1907-1908	H. L. Gandy (3rd Dist.)..	1915-
E. W. Martin.....	1908-1915		

(a) Died in the summer of 1891. J. L. Jolley was elected at a special election in November, 1891. (b) Died in the summer of 1908. E. W. Martin was elected at a special election in November, 1908.

UNITED STATES SENATORS.

G. C. Moody.....	1889-1891	R. F. Pettigrew	1889-1901
J. H. Kyle (a).....	1891-1901	R. J. Gamble.....	1901-1913
A. B. Kittredge.....	1901-1909	Thomas Sterling.....	1913-
Coe I. Crawford.....	1909-1915	E. S. Johnson.....	1915-

(a) Died in the summer of 1901. A. B. Kittredge was appointed to fill the vacancy and later elected by the legislature.

JUDGES OF THE SUPREME COURT

Dighton Corson.....	1889-1913	Charles S. Whiting.....	1910-
Alphonse G. Kellam.....	1889-1896	James H. McCoy.....	1910-
John E. Bennett.....	1889-1896	Ellison G. Smith.....	1910-
Dick Haney.....	1899-1913	John H. Gates.....	1913-
H. G. Fuller.....	1904-1909	Samuel G. Polley.....	1913-

CONSTITUTION OF SOUTH DAKOTA

[Adopted by popular vote October 1, 1889.]

PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquillity, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this constitution for the State of South Dakota.

ARTICLE I.

NAME AND BOUNDARY.

Sec. 1. The name of the State shall be South Dakota.

Sec. 2. The boundaries of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

ARTICLE II.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of government of the state are divided into three distinct departments—the legislative, executive, and judicial; and the powers and duties of each are prescribed by this constitution.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

Sec. 1. The legislative power shall be vested in a legislature, which shall consist of a senate and house of representatives, except that the people expressly reserve to themselves the right to propose

measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect (except such laws as may be necessary for the immediate preservation of the public peace, health, or safety, support of the state government and its existing public institutions).

Provided, That not more than five per centum of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall not be construed so as to deprive the legislature or any member thereof of the right to propose any measure. The veto power of the executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by a vote of the electors of the state shall be, "Be it enacted by the people of South Dakota." The legislature shall make suitable provisions for carrying into effect the provisions of this section.

Sec. 2. The number of members of the house of representatives shall not be less than seventy-five, nor more than one hundred and thirty-five. The number of members of the senate shall not be less than twenty-five, nor more than forty-five.

The sessions of the legislature shall be biennial, except as otherwise provided in this constitution.

Sec. 3. No person shall be eligible to the office of senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the state or territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the state or Territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff or collector of public moneys, member of either house of congress, or person holding any lucrative office under the United States or this state, or any foreign government, shall be a member of the legislature; *Provided*, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the legislature or become a member thereof.

Sec. 4. No person who has been, or hereafter shall be, convicted of bribery, perjury or other infamous crime, nor any person who has been, or may be collector or holder of public moneys who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

Sec. 5. The legislature shall provide by law for the enumeration

of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session after each enumeration and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy; *Provided*, that the legislature may make an apportionment at its first session after the admission of South Dakota as a state.

Sec. 6. The terms of the office of the members of the legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route.

Each regular session of the legislature shall not exceed sixty days, except in case of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage.

Sec. 7. The legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock M., in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

Sec. 8. Members of the legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted nor will I accept or receive, directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company, or person for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act."

This oath shall be administered by a judge of the supreme or circuit court, or the presiding officer of either house in the hall of the house to which the member or officer is elected, and the secretary of state shall record and file the oath subscribed by each member and officer. Any member or officer of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office. Any member or officer of the legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of senator or member of the house of representatives or any office within the gift of the legislature.

Sec. 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this constitution.

Sec. 10. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

Sec. 11. Senators and representatives shall in all cases, except treason, felony, or breach of peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same; and for words used in any speech or debate in either house they shall not be questioned in any other place.

Sec. 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the governor, the governor and senate, or from the legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the state or any county thereof, authorized by any law passed during the term for which he shall have been elected.

Sec. 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

Sec. 14. In all elections to be made by the legislature the members thereof shall vote *viva voce* and their votes shall be entered in the journal.

Sec. 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

Sec. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 17. Every bill shall be read three several times, but the first and second readings may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

Sec. 18. The enacting clause of a law shall be: "Be it enacted by the legislature of the state of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

Sec. 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered upon the journal.

Sec. 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

Sec. 21. No law shall embrace more than one subject, which shall be expressed in its title.

Sec. 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by vote of two-thirds of all the members elected to each house, otherwise direct.

Sec. 23. The legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorcees.
2. Changing the name of persons or places, or constituting one person the heir at law of another.
3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns, and villages; or changing or amending the charter of any town, city, or village; or laying out, opening, vacating, or altering town plats, streets, wards, alleys, and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties, or forfeitures.
9. Granting to an individual, association, or corporation any special or exclusive privilege, immunity, or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing, or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable, no special law shall be enacted.

Sec. 24. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this state or to any municipal corporation therein.

Sec. 25. The legislature shall not authorize any game of chance, lottery, or gift enterprise, under any pretense or for any purpose whatever.

Sec. 26. The legislature shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, or levy taxes, or to select a capital site, or to perform any municipal functions whatever.

Sec. 27. The legislature shall direct by law in what manner and in what courts suits may be brought against the state.

Sec. 28. Any person who shall give, demand, offer directly or indirectly, any money, testimonial, privilege, or personal advantage, thing of value to any executive or judicial officer or member of the

legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the legislature or of public officers of the state, or any municipal division thereof, and any effort toward solicitation of said members of the legislature or officers to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterwards be used against him in any judicial proceedings except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid shall be disqualified from holding any office or position or office of trust or profit in this state.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

Sec. 1. The executive power shall be vested in a governor, who shall hold his office for two years. A lieutenant governor shall be elected at the same time and for the same term.

Sec. 2. No person shall be eligible to the office of governor or lieutenant governor except a citizen of the United States and a qualified elector of the state; who shall have attained the age of thirty years, and who shall have resided two years next preceding the election within the state or territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

Sec. 3. The governor and lieutenant governor shall be elected by the qualified electors of the state at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislature, at its next regular session, shall forthwith by joint ballot choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

Sec. 4. The governor shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the legislature by message information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

Sec. 5. The governor shall have power to remit fines and for-

feitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; *Provided*, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted, or fine remitted, except upon the recommendation in writing of a board of pardons consisting of the presiding judge, secretary of state, and attorney general, after full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of state; but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations, and reprieves may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature at each regular session each case of remission of fine, reprieve, commutation, or pardon granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon, or reprieve, with his reasons for granting the same.

Sec. 6. In case of death, impeachment, resignation, failure to qualify, absence from the state, removal from office or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

Sec. 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of governor the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease, or otherwise, become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

Sec. 8. When any office shall, from any cause, become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

Sec. 9. Every bill which shall have passed the legislature, shall, before it becomes a law, be presented to the governor. If he approves, he shall sign it; but if not, he shall return it, with his objection, to the house in which it originated, which shall enter the objection at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present shall become a law, but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within

three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall, by its adjournment, prevent its return, in which case it shall be filed, with his objection, in the office of the secretary of state within ten days after such adjournment, or become a law.

Sec. 10. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the legislature be in session, he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

Sec. 11. Any governor of this state who asks, receives, or agrees to receive any bribe upon any understanding that his official opinion, judgment, or action shall be influenced thereby, or who gives or offers or promises his official influence in consideration that any member of the legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by threatened use of his veto power, or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislature, or who threatens any member that he, the said governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in the state.

Sec. 12. There shall be chosen by the qualified electors of the state, at the time and places of choosing members of the legislature, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and an attorney general, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

Sec. 13. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and attorney general shall be as prescribed by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

Sec. 1. The judicial powers of the state, except as in this constitution otherwise provided, shall be vested in a supreme court, circuit courts, county courts, and justices of the peace, and such

other courts as may be created by law for cities and incorporated towns.

Sec. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

Sec. 3. The supreme court and the judges thereof shall have power to issue writs of *habeas corpus*. The supreme court shall also have power to issue writs of *mandamus*, *quo warranto*, *certiorari*, injunction, and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; *Provided, however*, that no jury trials shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a circuit court for trial before a jury.

Sec. 4. At least two terms of the supreme court shall be held each year at the seat of government.

Sec. 5. The supreme court shall consist of three judges, to be chosen from districts by qualified electors of the state at large, as hereinafter provided.

Sec. 6. The number of said judges and districts may, after five years from the admission of this state under this constitution, be increased by law to not exceeding five.

Sec. 7. A majority of the judges of the supreme court shall be necessary to form a quorum, or to pronounce a decision, but one or more of said judges may adjourn the court from day to day, or to a day certain.

Sec. 8. The term of the judges of the supreme court who shall be elected at the first election under this constitution shall be four years. At all subsequent elections the term of said judges shall be six years.

Sec. 9. The judges of the supreme court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

Sec. 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this state or territory at least two years next preceding his election, and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

Sec. 12. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the supreme court not inconsistent with law. The legislature shall make provision for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to

secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the state.

Sec. 13. The governor shall have authority to require the opinions of the judges of the supreme court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

Circuit Courts.

Sec. 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with the constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

Sec. 15. The state shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

Sec. 17. The legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the state into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines; but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

Sec. 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the supreme court under such regulations as may be prescribed by law.

County Courts.

Sec. 19. There shall be elected in each organized county a county judge, who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

Sec. 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate, guardianship, and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; *Provided*, that such courts shall not have jurisdiction in any case where the debt, damage, claim, or value of property involved shall exceed one thousand dollars except in matters of probate, guardianship, and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the supreme court, in such cases and in such manner as may be prescribed by law; *Provided*, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities or towns.

Sec. 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

Justice of the Peace.

Sec. 22. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars or where the boundaries or title to real property shall be called in question.

Sec. 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

Municipal Courts.

In cities having a population of five thousand or over, the legislature may provide, in lieu of police magistrates, for municipal courts, the judges whereof shall be chosen in such manner as the legislature shall prescribe, which courts shall have exclusive original jurisdiction of all cases, both civil and criminal, cognizable before a justice of the peace under the laws of the state, and in which process shall be served within the city where such court is established, and shall also have exclusive original jurisdiction of all cases arising under the ordinance of such city. Such court shall also have jurisdiction co-extensive with the county in which such city is situated, in such civil and criminal cases as may be provided by law.

State's Attorney.

Sec. 24. The legislature shall have power to provide for state's attorneys and to prescribe their duties and fix their compensations; but no person shall be eligible to the office of attorney general or state's attorney who shall not at the time of his election be at least twenty-five years of age, and possess all the other qualifications for judges of circuit courts as prescribed in this article.

Miscellaneous.

Sec. 25. No person shall be eligible to the office of judge of the circuit or county court unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this state or territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

Sec. 26. The judges of the supreme court, circuit courts, and county courts shall be chosen at the first election held under the provisions of this constitution, and thereafter as provided by law. and the legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

Sec. 27. The time of holding courts within said judicial circuits

and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

Sec. 28. Special terms of said court may be held under such regulations as may be provided by law.

Sec. 29. The judges of the circuit courts may hold court in other circuits than their own under such regulations as may be prescribed by law.

Sec. 30. The judges of the supreme court, circuit courts and county courts shall receive such salary as may be provided by law, consistent with this constitution, and no such judge shall receive any compensation, perquisite, or emoluments for or on account of his office in any form whatever, except such salary; *Provided*, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

Sec. 31. No judge of the supreme court or circuit court shall act as attorney or counsellor-at-law, nor shall any county judge act as attorney or counsellor-at-law in any case which is or may be brought into his court, or which may be appealed therefrom.

Sec. 32. There shall be a clerk of the circuit court in each organized county, who shall also be clerk of the county court; and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

Sec. 33. Until the legislature shall provide by law for fixing the terms of court, the judges of the supreme, circuit, and county courts respectively shall fix the terms thereof.

Sec. 34. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings, and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; *Provided*, however, That the legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

Sec. 35. No judge of the supreme or circuit courts shall be elected to any other than a judicial office or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such terms for any elective office, except that of judge of the supreme court, circuit court or county court, given by the legislature or the people shall be void.

Sec. 36. All judges or other officers of the supreme, circuit or county courts, provided for in this article, shall hold their offices until their successors respectively are elected or appointed and qualified.

Sec. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the supreme, circuit and county courts by the governor. All other judicial and other

offices, by the county board of the counties where the vacancy occurs; in cases of police magistrates, by the municipality.

Sec. 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of, and by authority of the "State of South Dakota."

ARTICLE VI.

BILL OF RIGHTS.

Sec. 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty; of acquiring and protecting property and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Sec. 2. No person shall be deprived of life, liberty or property without due process of law.

Sec. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions, but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state.

No person shall be compelled to attend or support any minister or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Sec. 4. The right of petition and of the people peaceably to assemble to consult for the common good and make known their opinion shall never be abridged.

Sec. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

Sec. 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths vote of the jury in any court.

Sec. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Sec. 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of *habeas corpus* shall not be suspended un-

less, when in case of rebellion or invasion, the public safety may require it.

Sec. 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

Sec. 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia, when in actual service in time of war or public danger; *Provided*, that the grand jury may be modified or abolished by law.

Sec. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched, and the person or thing to be seized.

Sec. 12. No *ex-post-facto* law, or law impairing the obligation of contracts or making any irrevocable grant or privilege, franchise or immunity shall be passed.

Sec. 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

Sec. 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

Sec. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

Sec. 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house, without consent of the owner, nor in time of war except in the manner prescribed by law.

Sec. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

Sec. 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

Sec. 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state under regulations to be prescribed by the legislature.

Sec. 20. All courts shall be open; and every man, for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice administered without denial or delay.

Sec. 21. No power of suspending laws shall be exercised, unless by the legislature or its authority.

Sec. 22. No person shall be attainted of treason or felony by the legislature.

Sec. 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

Sec. 24. The right of citizenship to bear arms in defense of themselves and the state shall not be denied.

Sec. 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

Sec. 26. All political power is inherent in the people, and all free government is founded on their authority and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the state of South Dakota is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

Sec. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE VII.

ELECTIONS AND RIGHT OF SUFFRAGE.

Sec. 1. Every male person resident of this state who shall be of the age of twenty-one years and upward not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the territory of Dakota at the date of the ratification of this constitution by the people, or who shall have resided in the United States one year, in the state six months, in the county thirty days, and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

Sec. 3. All votes shall be by ballot, but the legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

Sec. 4. All general elections shall be biennial.

Sec. 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections except in the time of war or public danger.

Sec. 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

Sec. 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

Sec. 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

Sec. 9. Any woman having the qualifications enumerated in Section 1, of this Article, as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes, and may hold any office in this state except as otherwise provided in this constitution.

ARTICLE VIII.

EDUCATION AND SCHOOL LANDS.

Sec. 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools, wherein tuition shall be without charge, and equally open to all, and to adopt all suitable means to secure to the people the advantages and opportunities of education.

Sec. 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the state; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools, in the state. It shall be deemed a trust fund held by the state. The principal shall forever remain inviolate; and may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur.

Sec. 3. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state, and shall be for this purpose apportioned among and between all the several public school corporations of the state in proportion to the number of children in each, of school age, as may be fixed by law, and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state.

Sec. 4. After one year from the assembling of the first legislature, the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years and no more than two-thirds within the first fifteen years after the title thereto is vested in the state, and

the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the state auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands, within the several counties which they may from time to time select and designate for sale at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands, and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

Sec. 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash, and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years, and one-fourth in fifteen years; with interest thereon at the rate of not less than six per centum per annum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been especially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal shall be reappraised by the board of appraisal as herein before provided before they are sold.

Sec. 6. All sales shall be conducted through the office of the commissioner of school and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such forms as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

Sec. 7. All lands, money or other property donated, granted or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

Sec. 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same officers and

boards under the same limitations and subject to all the conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

Sec. 9. The lands mentioned in this article shall be leased for pasturage, meadow, farming, the growing of crops of grain and general agricultural purposes, and at public auction after notice as hereinbefore provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

Sec. 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

Sec. 11. The moneys of the permanent school, and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state as hereinafter provided, or in bonds of school corporations within the state, in bonds of the United States or of the state of South Dakota or of any organized county, township or incorporated city in said state. The legislature shall provide by law the method of determining the amounts of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, or in bonds of organized counties, townships or incorporated cities within this state, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investment may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, counties, townships, or cities, or in first mortgages upon good improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated, and in no case shall more than five thousand (\$5,000) dollars be loaned to any one person, firm or corporation, and the rate of interest shall not be less than five per centum per annum, and shall be such other and higher rate, as the legislature may provide, and shall be payable semi-annually on the first day of January and July; *Provided*, that wherever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be

entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds entrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds entrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of five per centum per annum upon all said funds entrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasury of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than five per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

Sec. 12. The governor may disapprove any sale, lease or investment other than such as are entrusted to the counties.

Sec. 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund, sustaining the loss, upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII., Sec. 2.

Sec. 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

Sec. 15. The legislature shall make such provision by general taxation, and by authorizing the school corporations to levy such additional taxes, as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

Sec. 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gifts or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

Sec. 17. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

Sec. 1. The legislature shall provide by general law for organizing new counties; locating the county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

Sec. 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

Sec. 3. Whenever a majority of the legal voters of any organized county shall petition the board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said board shall submit the same to the people of the said county seat at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election (except as hereinafter provided), then the county seat shall be changed, otherwise not; *Provided, however*, that in cases where the county seat is not located at a railroad station and it is proposed to remove the same to the railroad station, then the proposition to change the county seat may be ratified by three-fifths of the votes cast at said election, upon the question of such removal, and in such case if the proposition to change the county seat be ratified by three-fifths of the votes cast at said election upon the question of such removal, then the county seat shall be changed, otherwise not.

A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

Sec. 4. The legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

Sec. 5. In each organized county at the first general election held after the admission of the state of South Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner, and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk

of the court no person shall be eligible for more than four years in succession to any of the above named offices.

Sec. 6. The legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

Sec. 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person as provided in Section 9, Article VII.; and provided, further, that the legislature shall have authority to prescribe additional qualifications for superintendent of schools, not inconsistent herewith.

ARTICLE X.

MUNICIPAL CORPORATIONS.

Sec. 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four and the powers of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

Sec. 2. Except as otherwise provided in this constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose ever be diverted to any other.

Sec. 3. No street passenger railway or telegraph or telephone lines shall be constructed within the limits of any village, town or city without the consent of its local authorities.

ARTICLE XI.

REVENUE AND FINANCE.

Sec. 1. The legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year sufficient with other sources of income to pay the deficiency of the preceding year together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the

assessed valuation of all taxable property in the state as ascertained by the last assessment made for the state and county purposes.

Provided, that for the purpose of establishing, installing, maintaining and operating a hard fiber twine and cordage plant at the state penitentiary at Sioux Falls, South Dakota, the legislature shall provide for a tax for the year 1907 of not to exceed one and one-half mills on each dollar of the assessed valuation of all taxable property in the state, as ascertained by the last assessment made for state and county purposes.

Sec. 2. All taxes to be raised in this state shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

Sec. 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

Sec. 4. The legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

Sec. 5. The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation.

Sec. 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars, for each individual liable to taxation.

Sec. 7. All laws exempting property from taxation, other than that enumerated in sections 5 and 6 of this article, shall be void.

Sec. 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

Sec. 9. All taxes levied and collected for state purpose shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the state, and no warrant shall be drawn upon the state treasurer except in pursuance of an appropriation for the specific purpose first made. The legislature shall provide by suitable enactment for carrying this section into effect.

Sec. 10. The legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect

to persons and property within the jurisdiction of the body levying the same.

Sec. 11. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

Sec. 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the legislature may provide.

ARTICLE XII.

PUBLIC ACCOUNTS AND EXPENDITURES.

Sec. 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

Sec. 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriation shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the legislature.

Sec. 3. The legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; *Provided, however*, that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

Sec. 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

ARTICLE XIII.

PUBLIC INDEBTEDNESS.

Sec. 1. Neither the state nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; *Provided*, that the state may assume or pay such debt or liability when incurred in time of war for the defense of the state. Nor shall the state engage in any work of internal improvement.

Sec. 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed with pre-

vious debts in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state or the United States in war, and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrevocable until such debt is paid; *Provided, however*, the state of South Dakota shall have the power to refund the territorial debt assumed by the state of South Dakota, by bonds of the state of South Dakota.

Sec. 3. That the indebtedness of the state of South Dakota limited by Section 2 of this article shall be in addition to the debt of the territory of Dakota assumed by and agreed to be paid by South Dakota.

Sec. 4. The debt of any county, city, town, school district, civil township or other subdivision, shall never exceed five (5) per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred.

In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of the constitution shall be included:

Provided, that any county, municipal corporation, civil township, district or other subdivision may incur an additional indebtedness not exceeding ten per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred, for the purpose of providing water and sewerage for irrigation, domestic uses, sewerage and other purposes; and

Provided, further, that in a city where the population is eight thousand or more, such city may incur an indebtedness not exceeding eight per centum upon the assessed valuation of the taxable property therein for the year next preceding that in which said indebtedness is incurred for the purpose of constructing street railways, electric lights or other lighting plants.

Provided, further, that no county, municipal corporation, civil township, district or subdivision shall be included within such district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation, civil township, district or other subdivision, as the case may be, which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof by a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

Sec. 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

ARTICLE XIV.

STATE INSTITUTIONS.

Sec. 1. The charitable and penal institutions of the state of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind, and a reform school.

Sec. 2. The state institutions provided for in the preceding section shall be under the control of the state board of charities and corrections, under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

Sec. 3. The state university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of five members appointed by the governor and confirmed by the senate under such rules and restrictions as the legislature shall provide. The legislature may increase the numbers of members to nine.

Sec. 5. The legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

ARTICLE XV.

MILITIA.

Sec. 1. The militia of the state of South Dakota shall consist of all able bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be exempted by the laws of the United States or of this state.

Sec. 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

Sec. 3. The legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

Sec. 4. All militia officers shall be commissioned by the governor, and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

Sec. 5. The militia shall in cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

Sec. 6. All military records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring memorial of the patriotism and valor of South Dakota; and it shall be the duty of the legislature to provide by law for the safe keeping of the same.

Sec. 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

ARTICLE XVI.

IMPEACHMENT AND REMOVAL FROM OFFICE.

Sec. 1. The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

Sec. 2. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

Sec. 3. The governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Sec. 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office, or for drunkenness or gross incompetency, in such manner as may be provided by law.

Sec. 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

Sec. 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

Sec. 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

Sec. 8. No person shall be liable to impeachment twice for the same offense.

ARTICLE XVII.

CORPORATIONS.

Sec. 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide, by general laws for the organization of all corporations hereafter to be created.

Sec. 2. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

Sec. 3. The legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

Sec. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

Sec. 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

Sec. 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

Sec. 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

Sec. 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

Sec. 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

Sec. 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

Sec. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state and to connect the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

Sec. 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stock shall be made, and in which shall be kept for public inspection books in which shall be recorded the amount of

capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and places of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

Sec. 13. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

Sec. 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

Sec. 15. Railways heretofore constructed or that may hereafter be constructed, in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to legislative control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this state.

Sec. 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

Sec. 17. The legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Sec. 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

Sec. 19. The term "corporations" as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Sec. 20. Monopolies and trusts shall never be allowed in this state and no incorporated company, co-partnership or association of persons in this state shall directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any co-partnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

The legislature shall pass laws for the enforcement of this section by adequate penalties and in the case of incorporated companies, if necessary for that purpose may, as a penalty, declare a forfeiture of their franchises.

ARTICLE XVIII.

BANKING AND CURRENCY.

Sec. 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this state of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in the approved securities of the state or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

Sec. 2. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed, but the legislature may provide by general law for the reorganization of such banks.

Sec. 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stock; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

ARTICLE XIX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

Sec. 1. Until otherwise provided by law, the members of the house of representatives of the United States, apportioned to this state, shall be elected by the state at large. [See page 234.]

Sec. 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned as follows: [See Chapter VII for the apportionment of 1911.]

ARTICLE XX.

SEAT OF GOVERNMENT.

Sec. 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed state of South Dakota in the same manner and at the same election at which this constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

Sec. 2. The legislature at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

Sec. 3. Should no place voted for at said election have a majority of all votes cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

ARTICLE XXI.

MISCELLANEOUS.

Sec. 1. *Seal and Coat of Arms.* The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule," which shall be the motto of the state of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words, "State of South Dakota," in the lower part the words, "Great Seal," and the date in Arabic numerals of the year in which the state shall be admitted to the Union.

Sec. 2. *Compensation of Public Officers.* The governor shall receive an annual salary of two thousand five hundred dollars; the judges of the supreme court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit court shall each receive an annual salary of two thousand dollars; *Provided*, that the legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the governor and each of the judges of the supreme court to three thousand dollars, and the annual salary of each of the circuit court judges to two thousand five hundred dollars. The secretary of state, state treasurer and state auditor shall each receive an annual salary of one thousand eight

hundred dollars; the commissioner of schools and public lands shall receive an annual salary of one thousand eight hundred dollars; the superintendent of public instruction shall receive an annual salary of one thousand eight hundred dollars; the attorney general shall receive an annual salary of one thousand dollars; the compensation of the lieutenant governor shall be double the compensation of the state senator. They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

Sec. 3. *Oath of Office.* Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall before entering upon the duties thereof take an oath or affirmation to support the constitution of the United States and of this state, and faithfully to discharge the duties of his office.

Sec. 4. *Exemptions.* The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general laws.

Sec. 5. *Rights of Married Women.* The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

Sec. 6. *Drainage.* The drainage of agricultural lands is hereby declared to be a public purpose and the legislature may provide therefor, and may provide for the organization of drainage districts for the drainage of land for any public use, and may vest the corporate authorities thereof, and the corporate authorities of counties, townships and municipalities, with the power to construct levees, drains and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of this state, by special assessments upon the property benefited thereby, according to benefits received.

ARTICLE XXII.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the state of South Dakota expressed by their legislative assembly:

First, That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second, That we the people inhabiting the state of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said

Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by the state of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the state of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States or from any person a title thereto by patent or other grant save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such act of congress.

Third, That the state of South Dakota shall assume and pay that portion of the debts and liabilities of the territory of Dakota as provided in this constitution.

Fourth, That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this state, and free from sectarian control.

ARTICLE XXIII.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

Sec. 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution; *Provided*, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide; and *provided*, *further*, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

Sec. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XXIV*

PROHIBITION.

1. No person, firm, club, association or corporation within this state shall on or after the first day of July, 1917, make, brew, distill or manufacture, or aid in making, brewing, distilling or manufacturing, for sale, barter, trade, gift or beverage purposes, any spirituous, vinous, malt, brewed, fermented or other intoxicating liquors, except as herein provided.

No person, firm, club, association or corporation within this state, shall, on or after the first day of July, 1917, import or aid in importing into this state for sale, barter, trade, or gift, nor sell or aid in selling, nor offer for sale, barter, or trade or aid in offering for sale, barter, or trade, nor give away or furnish or aid in giving away or furnishing, nor keep for sale, barter, trade or gift, or aid in keeping for sale, barter, trade or gift, any spirituous, vinous, malt, brewed, fermented or other intoxicating liquor or any mixture or compound which in part consists of intoxicating liquors, except as hereinafter provided.

Provided, that nothing in this article contained shall be construed to prohibit the compounding, importation, sale or keeping for sale any spirituous, or vinous, liquors or compounds or mixtures which in part consist of spirituous or vinous liquors in this state for medicinal, mechanical, sacramental or scientific purposes by regularly registered pharmacists, under such regulations and restrictions as the Legislature may prescribe.

2. The Legislature shall at its next session after the adoption of this article prescribe regulations for the enforcement of the provisions of this article and provide adequate and suitable penalties for the violation thereof.

* Proposed by the legislative assembly of 1915, adopted by popular vote 1916.

ARTICLE XXVI.

SCHEDULE AND ORDINANCE.

Sec. 17. The ordinances and schedule enacted by this convention shall be held to be valid for all the purposes thereof.

Sec. 18. That we, the people of the state of South Dakota, do ordain:

First, That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second, That we, the people inhabiting the state of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state, shall never be taxed at a higher rate than the lands belonging to residents of this state. That no taxes shall be imposed by the state of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the state of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of congress.

Third, That the state of South Dakota shall assume and pay that portion of the debts and liabilities of the territory of Dakota as provided in this constitution.

Fourth, That provisions shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this state, and free from sectarian control.

Fifth, That jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall, and Fort Sully, heretofore declared by the President of the United States; *provided*, legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations. These ordinances shall be irrevocable without the consent of the United States, and also the people of the said state of South Dakota, expressed by their legislative assembly.

ARTICLE XXVIII.

INVESTMENT OF SCHOOL MONEY.

The several counties of the state shall invest the moneys of the permanent school and endowment funds in bonds of school corporation, state, county and municipal bonds or in first mortgages upon good improved farm lands within their limits respectively; under such regulations as the legislature may provide, but no farm loan shall exceed one thousand dollars to any one person, firm or corporation.

Generalized geologic section in the Black Hills region in South Dakota.

Age.	Formation.	Principal characters.	Thickness.
Quaternary.....			<i>Feet.</i>
Tertiary.....	White River group.		
	Brule clay.....		
	Chadron formation.....		
	Fox Hills sandstone.....	Sandstone with some shale.....	250-500
	Pierre shale.....	Dark-gray shale.....	1,200-1,400
	Niobrara formation.....	Chalk and calcareous shale.....	150-225
	Benton group:		
	Carlile shale.....	Gray shales with thin sandstones, limestones, and concretions.	500-800
	Greenhorn limestone.....	Impure slabby limestone.....	50
Cretaceous.....	Graneros shale.....	Dark shale with lenses of massive sandstone in its lower part at some places.	900-1,150
	Dakota sandstone.....	Massive buff sandstone.....	35-150
	Fuson formation.....	Very fine grained sandstone and massive shales, white to purple.	30-100
	Minnewaste limestone.....	Gray limestone.....	0-30
	Lakota sandstone.....	Massive buff sandstone, with some intercalated shale.	100-350
Cretaceous or Jurassic	Morrison shale.....	Massive shale, gray, greenish, and maroon.	0-150
Jurassic (?).....	Unkpapa sandstone.....	Massive fine sandstone, white, purple, red, and buff.	0-250
Jurassic.....	Sundance formation.....	Dark-gray shales and buff sandstones.	60-300
Triassic (?).....	Spearfish formation.....	Red sandy shales with gypsum beds.	350-700
Carboniferous:			
Permian.....	Minnekahta limestone.....	Thin-bedded gray limestone.....	30-50
	Opeche formation.....	Red slabby sandstone and sandy shale.	90-130
Pennsylvanian to Mississippian(?).....	Minnelusa sandstone.....	Sandstones, mainly buff and red, in greater part calcareous; some thin limestone included.	400-750
Mississippian.....	Pahasapa limestone.....	Massive gray limestone.....	100-700
Ordovician.....	Englewood limestone.....	Pink slabby limestone.....	25-50
Cambrian.....	Whitewood limestone.....	Massive buff limestone.....	0-80
	Deadwood sandstone.....	Red-brown sandstone and quartzite, locally conglomeratic, partly massive; some greenish-gray shale and limestone breccia.	4-450

CONSTITUTION OF THE UNITED STATES*

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SEC. 2. 1. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

* This reprint of the Constitution exactly follows the text of that in the Department of State at Washington, save in the spelling of a few words.

5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. 1. The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years; and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath of affirmation. When the President of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. 1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their

judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. 1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SEC. 7. 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. 1. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;
4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
7. To establish postoffices and post roads;
8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
9. To constitute tribunals inferior to the supreme court;
10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
13. To provide and maintain a navy;
14. To make rules for the government and regulation of the land and naval forces;
15. To provide for calling forth the militia to execute the laws of the Union, to suppress insurrections and repel invasions;
16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;
17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States,* and to exercise like authority over all places purchased by consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and
18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. 1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.†

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

* The District of Columbia, which comes under these regulations, had not then been erected.

† A temporary clause, no longer in force. See also Article V.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any state.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10.* 1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

SECTION 1. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

2. [Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the

* See also the 10th, 13th, 14th, and 15th Amendment.

persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate, shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.*]

3. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

6. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

7. Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SEC. 2. 1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he

* This paragraph superseded by the 12th Amendment.

may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. 1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—between a state and a citizen of another state;—between citizens of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects;—between citizens of the same state claiming lands under grants of different states.

* See the 11th Amendment.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. 1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. 1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

3. No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*

SEC. 3. 1. New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of

* See the 13th Amendment.

them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several states pursuant to the fifth article of the original Constitution.

ARTICLE I*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

* The first ten Amendments were adopted in 1791.

ARTICLE II

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI*

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII†

The electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate;—The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number

* Adopted in 1798.

† Adopted in 1804.

shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII*

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV†

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SEC. 3. No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the

* Adopted in 1865.

† Adopted in 1868.

loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV *

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI †

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the states and without regard to any census or enumeration.

ARTICLE XVII †

The Senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures. When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies; provided, the legislature of any state may empower the executive authority to make temporary appointments until the people fill the vacancy by election as the legislature may direct. This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as a part of the Constitution.

* Adopted in 1870.

† Adopted in 1913.

THE STATE AND NATION

If you do not find the definition or explanation you seek in this list, consult the reference given in the Index.

ABSTRACT OF TITLE. An outline history of the title or ownership of land, giving each transfer, mortgage, lien or other charge affecting the ownership.

ACKNOWLEDGMENT. The act by which one who has signed a deed or other legal paper declares before a justice, judge, or notary public that it is his free act and deed. The certificate of the officer is also called an acknowledgment.

ACTION. The proceeding in court to enforce a right. Also called a suit. A criminal action is one prosecuted by the state against a person charged with a public offense, for the punishment thereof. All others are civil actions.

ADMINISTRATOR. A man appointed by a county judge to take charge of the property or estate of a person who has died without making a will. If a woman is appointed she is called an *administratrix*.

AFFIDAVIT. A written declaration under oath, made without notice to the adverse party. See "deposition."

ASSETS. Property available for the payment of debts.

ATTACHMENTS. The seizure of property by a legal process for the purpose of having it disposed of according to law.

BAIL. The security given for the appearance of a prisoner before the court. The bail may be cash or a bond signed by some person who is competent to pay the sum named if the prisoner does not appear at the proper time. Where a prisoner's own bond is accepted it is called a *recognizance*.

BAILMENT. The holding by one person of another person's property. The person holding the property is called the bailee. The owner is the bailor.

CERTIORARI. See "writ."

CHATTEL. An article of personal property.

CHATTEL MORTGAGE. A mortgage in which horses, furniture, or other chattels are offered as security for the payment of a debt.

CODE. A body of laws on a given subject. In 1903 the state legislature adopted what are called the "Revised Codes of 1903." These include a political code, a civil code, a code of civil procedure, a probate code, a justice code, a penal code, and a code of criminal procedure.

COMMON LAW. The old laws of England developed by usage. They are in force in South Dakota in those cases not provided for by legislative enactment.

CONTRACT. A contract is an agreement between two or more persons, based upon consideration, to do or not to do some particular thing. To be legal and binding:

1. There must be an offer by one party and an acceptance of the offer by another.

2. The parties to the contract must be of lawful age and sound mind, excepting when it is a contract for necessities.

3. There must be consideration. This may be money, goods, or a valuable act performed, or a promise of it. If a contract without consideration has been performed it is legal, but a gratuitous promise cannot be enforced. A past consideration will not support a promise.

4. The thing performed must not be unlawful.

5. An oral contract is just as binding as a written contract with a few exceptions. The following contracts must be in writing to be enforced in South Dakota:

- a. For the sale of land or for its rental for more than one year.

- b. For the sale of personal property to the value of \$50.00 or more, unless there be a part payment or the delivery of a part of the goods.

- c. Contracts not to be performed within a year or extending over more than a year.

- d. An agreement to pay the debt or default of another.

- e. An agreement made upon consideration of marriage, other than a mutual promise to marry.

- CORPORATION.** "A corporation is a creature of the law, having certain powers and duties of a natural person." "Corporations are either public or private." "Public corporations are formed or organized for the government of a portion of the state. Such corporations are regulated by the political code, or by local statute. Private corporations are formed for the purpose of religion, benevolence, education, art, literature, or profit; and all corporations not public are private. The instrument by which a private corporation is formed is called 'articles of incorporation,' or 'certificate of incorporation.' And one-third of the officers of such corporations shall be residents of this state."—Civil Code.
- DEED, WARRANTY.** A written contract whereby one person conveys his right and title to land to another person and guarantees his ownership. A quitclaim deed simply conveys whatever title is possessed but does not warrant the ownership.
- DEFENDANT.** The party against whom an action is brought.
- DELINQUENT.** (a) A person under eighteen years of age who is guilty of immorality, truancy from school, the use of cigarettes, or other wrong doing. Such person is subject to commitment to the state training school. (b) Taxes or debts due and unpaid are said to be delinquent.
- DEPOSITION.** A written declaration under oath, made after notice has been sent to the adverse party for the purpose of enabling him to attend and cross-examine; or made upon written questions. When it is impossible for a witness in a case to attend court and testify, his deposition may be taken and presented as evidence.
- EASEMENT.** Certain rights in land are called easements. Among them are the right of pasturage, of fishing, of hunting, or travel, of water, of wood or minerals, of conducting lawful sports, of burial. (If a person has the right to be buried on a certain piece of land this right is called an easement.)
- EMINENT DOMAIN.** The right of the government to take private property for public uses. This right may be exercised by the United States, the state, the county, the city, the township, the town, and the school district. The state permits railroads, and telegraph and telephone companies to exercise the right of eminent domain to a certain extent. All private property thus taken must be paid for. If necessary a board of appraisers is appointed to determine the value of the property.
- EXECUTION.** a. The legal taking of a human life: abolished in South Dakota. It is called capital punishment and may be inflicted only for treason or murder in the first degree (deliberately planned). Many states have abolished capital punishment, as it is not a preventive of crimes of that kind.
b. The legal process of taking property for the payment of a debt. There are three kinds of executions: (1) against the property of one who owes debts, has been sued and judgment has been rendered against him by the court. (See Exemptions in the Index.) (2) Against the person in the form of an arrest if he is about to leave the state without paying his debts, or if property is being concealed or shipped away to prevent its being seized for debts. (3) For the delivery of the possession of property. Replevin or "claim and delivery" is a process whereby the sheriff seizes property rightfully belonging to another person. In no case can a person compel another to yield possession of property, even though wrongfully held. A peace officer, with proper authority from a judge or justice of the peace, alone can lawfully do this. This is also true of selling mortgaged property.
- EXECUTOR** (eks-e'cu-ter). A person named in a will to carry out its provisions.
- EXEQUATUR** (eks-e-kwā'tur). A writ issued by the federal secretary of state to a consul from a foreign country authorizing him to exercise his powers in the place to which he is assigned.
- FELONY.** A crime punishable by death or penitentiary imprisonment. A lesser crime is called a misdemeanor.
- FRANCHISE.** A privilege granted an individual or corporation, such as a right to conduct an electric lighting plant in a city. The term is also applied to the right to vote.
- FREE COINAGE.** The right to present a metal at a mint and have it coined into money. We have the "free coinage" of gold but not of

- any other metal. Whether the government makes charge for the coinage (the United States does not) has nothing to do with the use of the term.
- GERRYMANDER.** A political device in the districting of a state to have the boundaries so arranged that large numbers of the opposite party may be in a few districts so that in the majority of the districts the party which does the gerrymandering may elect representatives.
- HABEAS CORPUS.** See "writ."
- INDETERMINATE SENTENCE.** Certain criminals may be sentenced to the penitentiary for an indefinite period. When the governor of the state thinks best the prisoner is found employment and released on parole, that is, on good behavior, for a certain length of time, usually six months, after which he may be given freedom.
- INFANT.** A person under twenty-one years of age is called, in legal terms, an infant.
- INJUNCTION.** See "writ."
- INTEREST.** Money paid for the use of money is called interest. *Legal interest* is the rate which must be paid when there is no rate specified or upon a warrant, note, draft or other debt that is due and unpaid. The legal rate in South Dakota is seven per cent. It is unlawful to charge more than twelve per cent. An interest charge in excess of twelve per cent is called *usury*. No interest can be collected on a note specifying a rate higher than twelve per cent.
- LIEN** (leen). A claim which a person has upon the property of another because of a debt.
- MAJORITY.** (a) Twenty-one years of age. (b) Over one-half the total.
- MANDAMUS.** See "writ."
- MARQUE, LETTERS OF.** A "mark" or "march" meant the boundary; a letter of marque authorized the person receiving it to cross the boundary and seize property of the enemy. Private ships given authority of this kind are called privateers. Most nations no longer grant "letters of marque and reprisal."
- MINOR.** A person under twenty-one years of age.
- MISDEMEANOR.** See "felony."
- MORTGAGE.** A written grant or conveyance of property to a creditor for the security of a debt, to become void when the debt is paid. The one who gives the mortgage is called the mortgagor; the one who receives it is the mortgagee. The ownership and possession of the property remain with the mortgagor. The legal process by which the ownership and possession pass to the mortgagee is called *foreclosure*. *Redemption* is the process by which the mortgagor may again recover the property he lost through foreclosure.
- NOTARY PUBLIC.** A person appointed by the governor for four years (renewable) and given the power to administer oaths, acknowledgments, affidavits, and depositions anywhere within the state.
- ORDINANCE.** A law for the government of a city or town passed by the authorities of the city or town.
- PARDON.** A full release from punishment for an offense. In South Dakota it may be granted only after conviction. As a rule a pardon may be granted as well before or during a trial as after it. A reprieve is a temporary suspension of a sentence pronounced by some court or tribunal. A commutation is a lessening of punishment.
- PASSPORT.** A document issued by the federal secretary of state to a citizen certifying that he is a citizen and entitled to the protection and safety accorded such citizens when traveling in a foreign country. In order to travel in many countries one must have a passport from his home country.
- PENAL** (pēnal). Pertaining to punishment, more particularly to the penitentiary.
- PERJURY.** A willful falsehood made under oath or affirmation. Perjury is a penitentiary offense.
- PERSONAL PROPERTY.** See "real property."
- PLAINTIFF.** The party who brings an action at law against another. If a criminal action the government is always the plaintiff.
- PLURALITY.** In an election, the highest number of votes. Suppose A receives 1,000 votes; B, 1,200 votes; C, 900 votes. B will then have a plurality of the votes but not a majority (over one-half the total number). For most offices the one receiving a plurality of votes is elected, even though he may not have a majority.
- POWER OF ATTORNEY.** By an attorney we usually mean a lawyer who has been licensed to practice in the courts. In this case it means a writ which authorizes one person to sign another person's name. A power of attorney must be acknowledged before a notary public, justice, or judge. An infant cannot give a power of attorney, though he may receive one.

PROHIBITION, WRIT OF. See "writ."

QUASH. To set aside or make void.

QUO WARRANTO. See "writ."

REAL ESTATE. By real estate or real property is meant that property which is fixed and immovable, such as land and what is erected or growing on it or found beneath it. Other property is called personal. Some things which are movable are real property, such as fences. A house erected on rented land and built with the intention of moving it is personal property. Most growing crops on rented land are personal property (called *emblements*).

REPRIEVE. See pardon.

REQUISITION. (a) A formal demand by the ruler of a country upon the ruler of another country (or the governor of one state upon the governor of another state) for the surrender of a person who is charged with a crime. The response to a requisition is called extradition. (b) A demand made by a person or officer upon some governmental authority for supplies or the payment of a debt.

SMUGGLING. Pringing goods into a country without paying the required duties, or import taxes.

STATUTE. A law enacted by the state legislature or by congress.

STATUTE OF LIMITATIONS. A law requiring that an action for debt must be commenced within a certain time or the debt cannot afterwards be legally collected. On open accounts, as with a store, the time in South Dakota is six years from the date of the last account; on notes it is six years from the time the note is due; a judgment for a debt must be collected within ten years.

SUBPOENA. A subpoena (Lat. *sub*, under+*poena*, punishment) is a writ summoning a witness to court.

SUFFRAGE. The right to vote.

SUIT. A proceeding at law. An action.

TRIAL. A judicial examination of the issues between parties, whether issues of law or of fact.

VENIRE (ve-ni're). A venire (meaning "to go") is a writ summoning a juror to court.

VENUE. (a) The place where an action is tried. If the judge is related to a party to a suit a change of venue may be demanded. (b) The heading of legal documents showing the place,—the state and county.

VOID. Null, of no effect. A contract to do an unlawful act is void.

VOIDABLE. Capable of being made void. Most contracts made by a minor are voidable by the minor.

WATERED STOCK. Stock, or shares in a corporation, which do not represent actual investment. If a factory costs ten thousand dollars and shares to the value of twenty thousand dollars are issued, it is plain that half of the stock is a make believe investment, or "water." Such proceedings are unlawful.

WILL. A written instrument by which a person makes a disposition of his property to take effect after his death.

WRIT. Special civil proceedings are provided for by the issuance of certain writs by the state supreme court or a circuit court.

A writ of *mandamus* (*mandare*—to command) summons a person to court, usually an officer, to show why he does not to do some specified thing requested or required of him. After an investigation the judge decides whether he must do it. A county treasurer may refuse to pay a warrant issued by the county auditor if he thinks the claim is unlawful. A writ of *mandamus* may be issued by the judge commanding him to show why he does not pay the warrant. The judge then decides whether it shall be paid. A writ of *prohibition* is one issued by a higher court to a lower one commanding the latter to stop the prosecution of a suit pending before it. An *injunction* is a form of a writ of prohibition (though sometimes it commands performance). The state supreme court or a circuit court may issue any of these writs. In case a court or board has exceeded its authority, a higher court may issue a writ of *certiorari* (ser-shi-o-rā'ri) whereby the case or proceedings are reviewed and corrected. A writ of *quō warrantō*, mentioned in the constitution, was formerly issued to determine "by what right" a person occupies an office. It is rarely used now, however, but any such matter is settled by a civil action. Habeas Corpus, see page 200.

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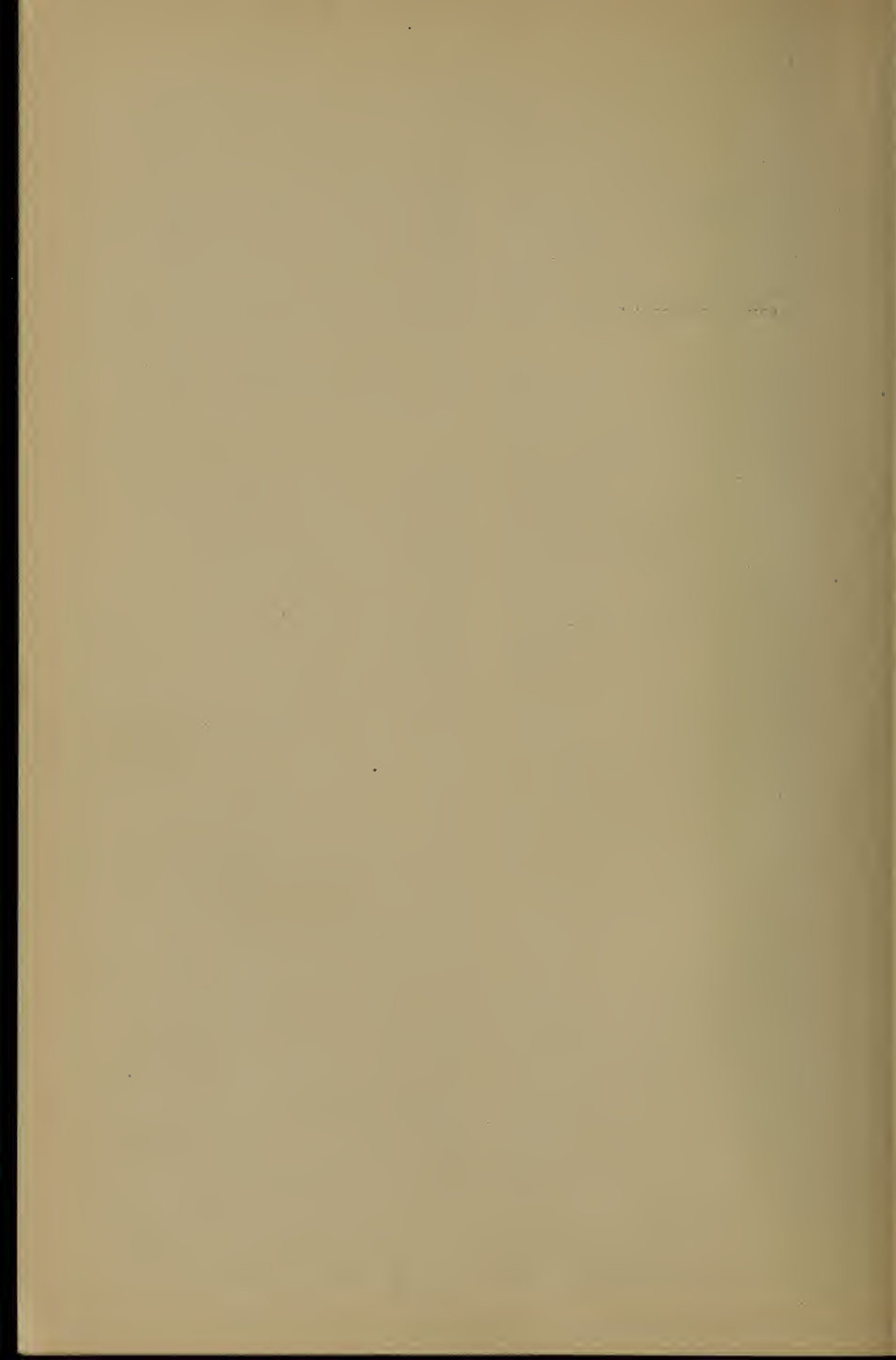
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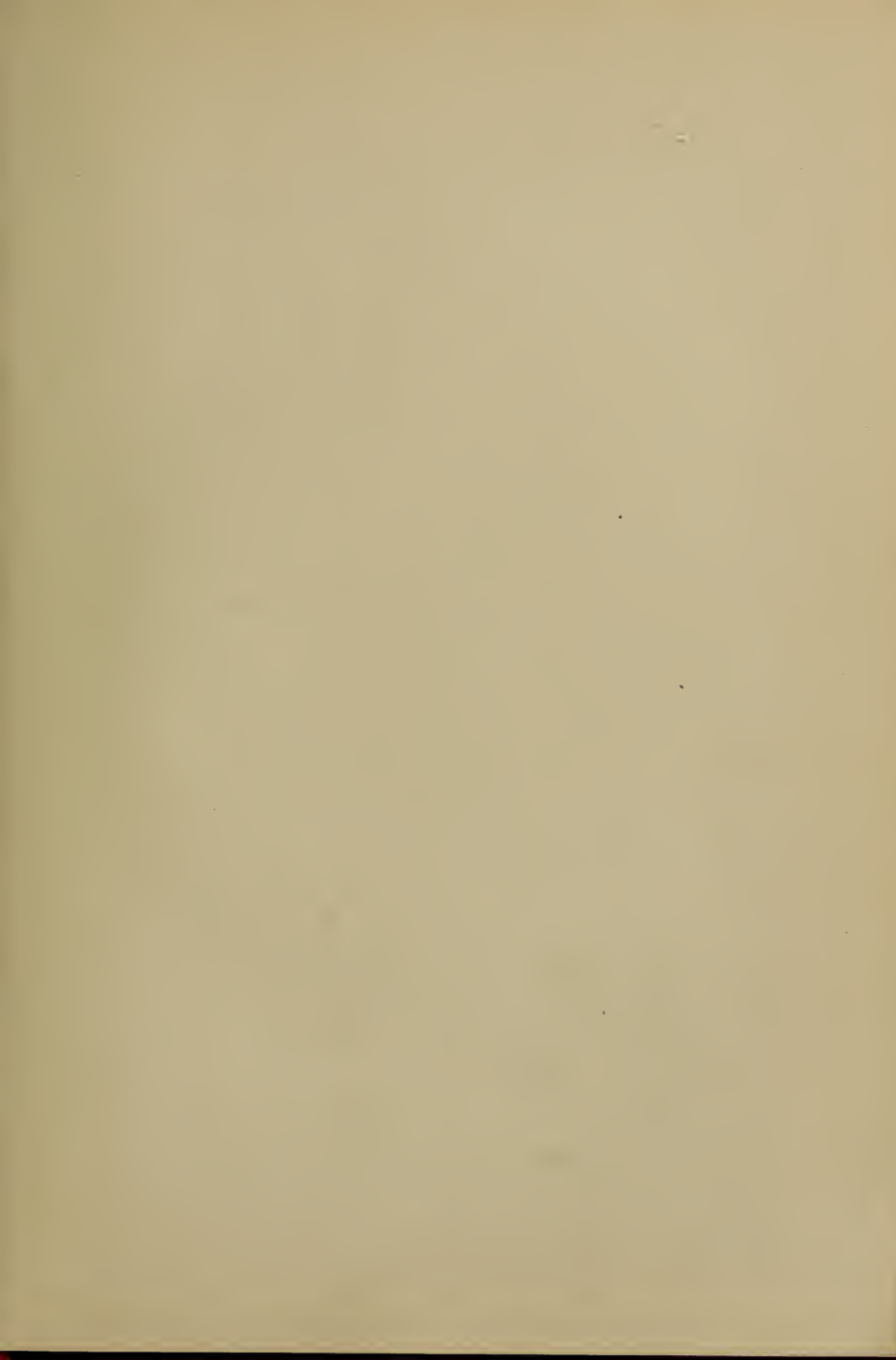
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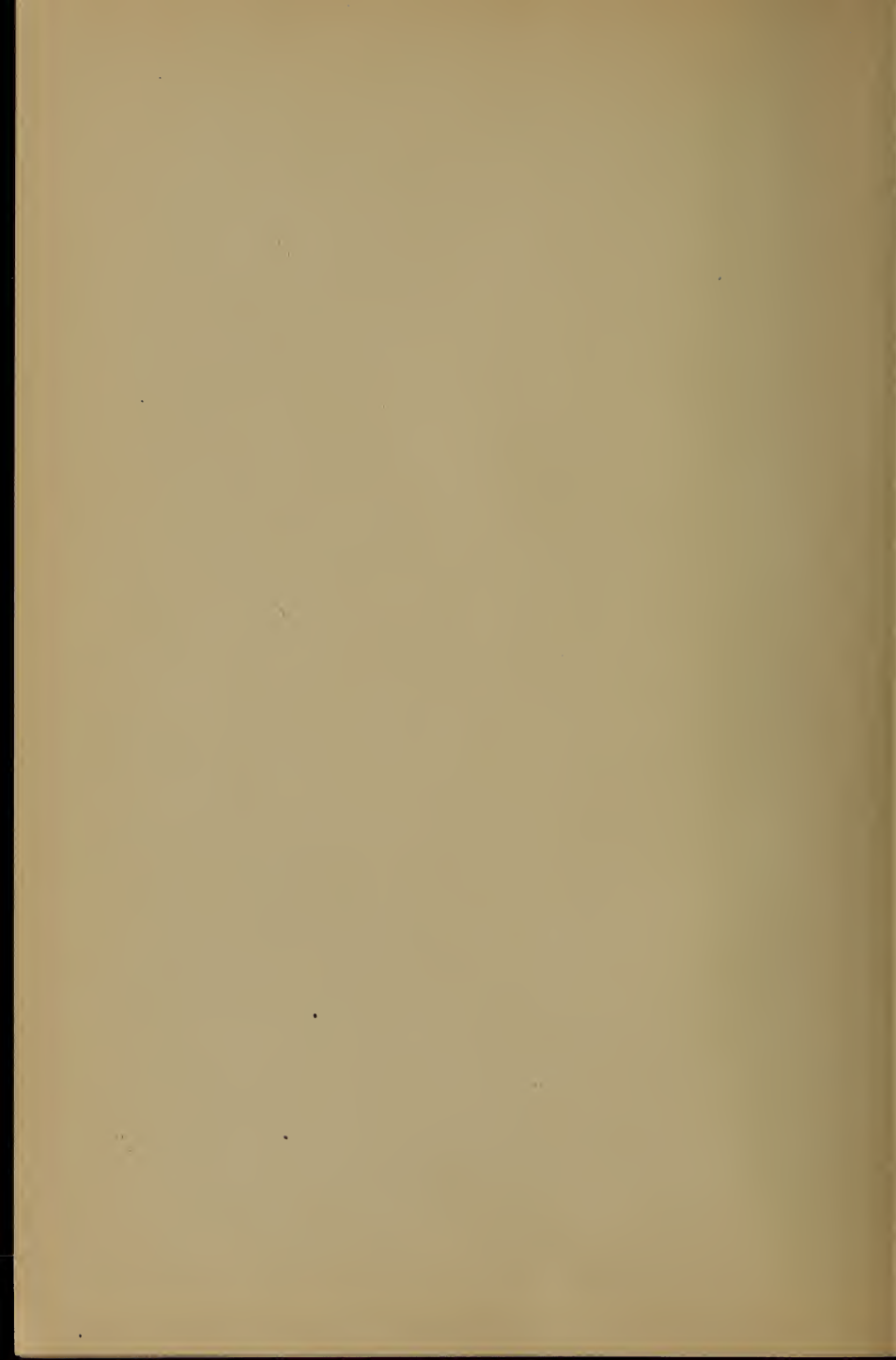
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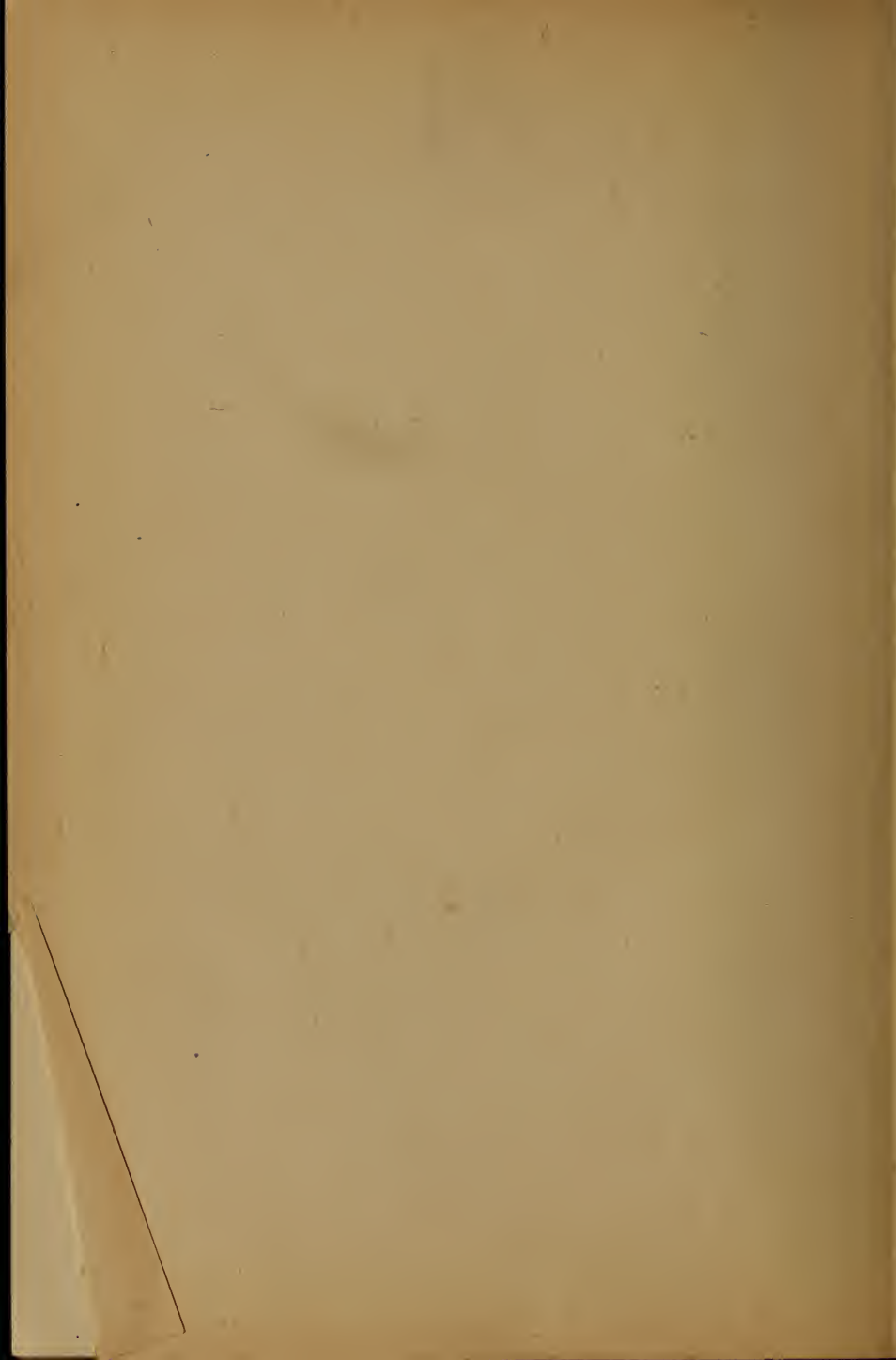
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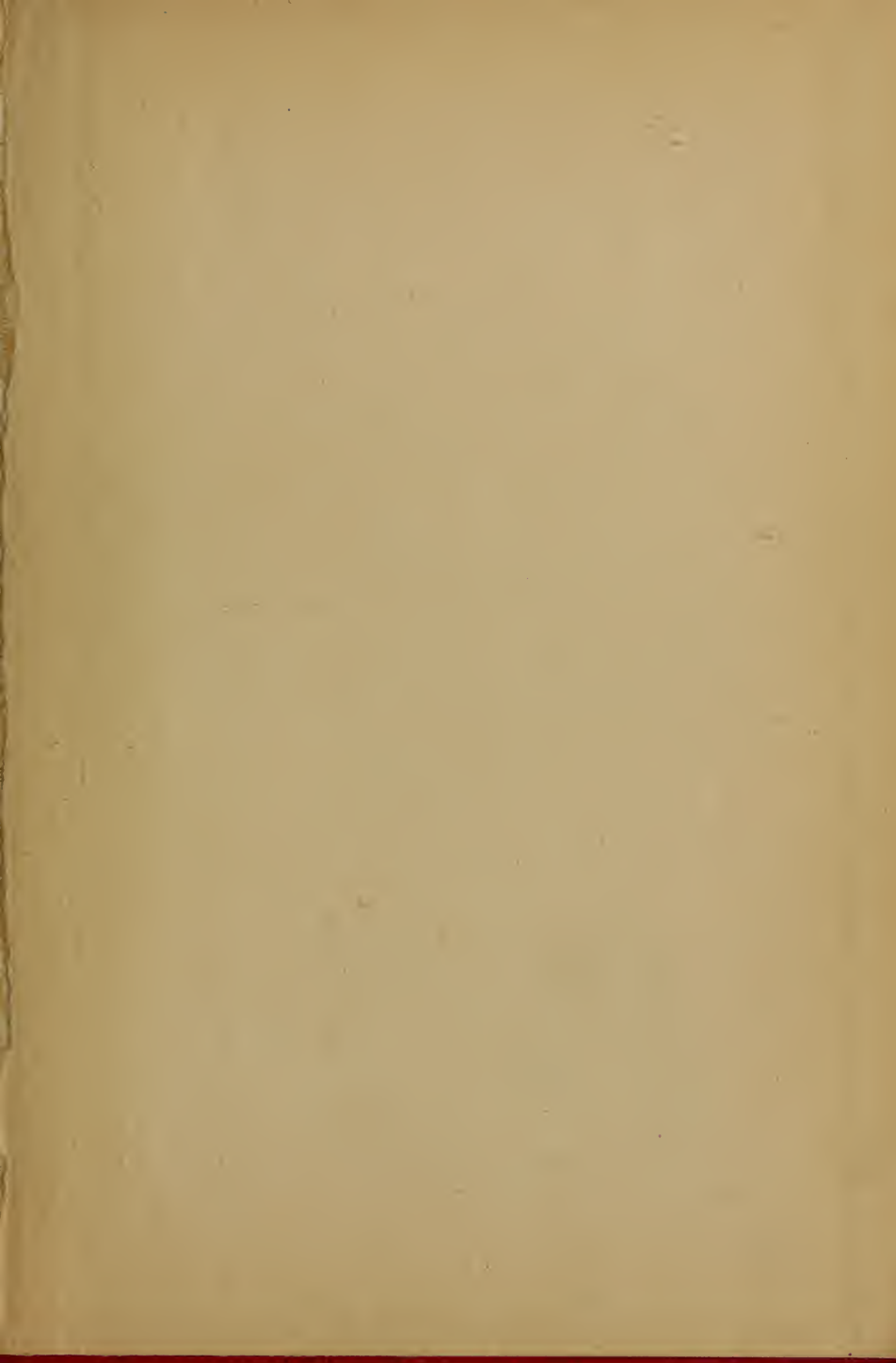




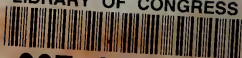








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